## 1

#### Our interpretation is that the resolution should determine the division of affirmative and negative ground.

#### “Resolved” means enactment of a law.

Words and Phrases 64 Words and Phrases Permanent Edition (Multi-volume set of judicial definitions). “Resolved”. 1964.

Definition of the word **“resolve,”** given by Webster is “to express an opinion or determination by resolution or vote; as ‘it was resolved by the legislature;” It **is** of **similar** force **to the word “enact,”** which is defined by Bouvier as **meaning “to establish by law”.**

#### Reduce means to diminish in size

Michigan District Court 11 “SAGINAW OFFICE SERVICE, INC., Plaintiff, v. BANK OF AMERICA, N.A., Defendant. Civil Action No. 09-CV-13889 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION,” Lexis

In determining whether the words "reduce" and "adjust" are ambiguous, the Court is directed to consider the ordinary meanings of the words, Rory, 703 N.W.2d at 28, and to harmonize [\*11] the disputed terms with other parts of the contract, Royal, 706 N.W.2d at 432 ("construction should be avoided that would render any part of the contract surplusage or nugatory"). "When determining the common, ordinary meaning of a word or phrase, consulting a dictionary is appropriate." Stanton v. City of Battle Creek, 466 Mich. 611, 647 N.W.2d 508 (Mich. 2002). The Court finds that the plain meanings of these terms do not unambiguously support the Bank's position. The dictionary definition of "adjust" is to "adapt" or "to bring to a more satisfactory state." Webster's Third New Int'l Dictionary 27 (2002) ("Webster's"). This is a fairly broad definition, which may be subject to, alternatively, narrower or more expansive scope. To say that the complete elimination of a schedule brings it to a more satisfactory state is undoubtedly an expansive viewof adjustment. It is the Court's duty to determine the intent of the contracting parties from the language of the contract itself, Rory, 703 N.W.2d at 30 ("the intent of the contracting parties is best discerned by the language actually used in the contract"), and in this case, it cannot unambiguously be said that the sense in which the parties used these [\*12] terms embraces the Bank's more expansive definition. Likewise, "reduce" means "to diminish in size, amount, extent, or number," Webster's, at 1905, but the term does not, in the context of the TSA, unambiguously embody an expansive scope that views complete deletion as a subset of diminution.

#### Medicine refers to a substance used in the treatment of disease

Merriam Webster ND [“Medicine.” Merriam-Webster.com Dictionary, Merriam-Webster, Accessed 27 Jun. 2021 [https://www.merriam-webster.com/dictionary/medicine.](https://www.merriam-webster.com/dictionary/medicine.%20)  Ww

Definition of medicine¶ 1a : a substance or preparation used in treating disease cough medicine¶ b : something that affects well-being he's bad medicine— Zane Grey¶ 2a : the science and art dealing with the maintenance of health and the prevention, alleviation, or cure of disease She's interested in a career in medicine.¶ b : the branch of medicine concerned with the nonsurgical treatment of disease¶ 3 : a substance (such as a drug or potion) used to treat something other than disease

#### Governments reduce intellectual property protections. Lindsey 6/3

Brink Lindsey, 6-3-2021, "Why intellectual property and pandemics don’t mix," Brookings, https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/

When we take the longer view, we can see a fundamental mismatch between the policy design of intellectual property protection and the policy requirements of effective pandemic response. Although patent law, properly restrained, constitutes one important element of a well-designed national innovation system, the way it goes about encouraging technological progress is singularly ill-suited to the emergency conditions of a pandemic or other public health crisis. Securing a TRIPS waiver for COVID-19 vaccines and treatments would thus establish a salutary precedent that, in emergencies of this kind, governments should employ other, more direct means to incentivize the development of new drugs.

#### Vote neg for predictable limits—post-facto topic adjustment structurally favors the aff by manipulating the balance of prep which is anchored around the resolution as a stasis point. Not debating the topic allows someone to specialize in one area of the library for 4 years giving them a huge edge over people who switch research focus ever 2 months, which means their arguments are presumptively false because they haven’t been subject to well-researched scrutiny

#### 2 impacts:

#### First is fairness—debate is fundamentally a game which requires both sides to have a relatively equal shot at winning and is necessary for any benefit to the activity. That outweighs:

#### A] decision-making: every argument concedes to the validity of fairness i.e. that the judge will make a fair decision based on the arguments presented. This means if they win fairness bad vote neg on presumption because you have no obligation to fairly evaluate their arguments.

#### B] probability: voting aff can’t solve any of their impacts but it can solve ours. All the ballot does is tell tab who won which can’t stop any violence but can resolve the fairness imbalance in this particular debate.

#### Second is switch side and idea-testing --- only a limited topic that leaves a role for the negative allows contestation and second-order testing that overcomes polarization. Switching sides forces them to scrutinize their own beliefs, which is valuable for developing and defending their own convictions more robustly.

Poscher 16

Ralf Poscher, Diat the Institute for Staatswissenschaft and Philosophy of Law at the University of Freiburg “Why We Argue About the Law: An Agonistic Account of Legal Disagreement”, Metaphilosophy of Law, Tomasz Gizbert-Studnicki/Adam Dyrda/Pawel Banas (eds.), Hart Publishing. 2016.

Hegel’s dialectical thinking powerfully exploits the idea of negation. It is a central feature of spirit and consciousness that they have the power to negate. The spirit “is this power only by looking the negative in the face and tarrying with it. This […] is the magical power that converts it into being.”102 The tarrying with the negative is part of what Hegel calls the “labour of the negative”103. In a loose reference to this Hegelian notion Gerald Postema points to yet another feature of disagreements as a necessary ingredient of the process of practical reasoning. Only if our reasoning is exposed to contrary arguments can we test its merits. We must go through the “labor of the negative” to have trust in our deliberative processes.104

This also holds where we seem to be in agreement. Agreement without exposure to disagreement can be deceptive in various ways. The first phenomenon Postema draws attention to is the group polarization effect. When a group of like‐minded people deliberates an issue, informational and reputational cascades produce more extreme views in the process of their deliberations.105 The polarization and biases that are well documented for such groups106 can be countered at least in some settings by the inclusion of dissenting voices. In these scenarios, disagreement can be a cure for dysfunctional deliberative polarization and biases.107 A second deliberative dysfunction mitigated by disagreement is superficial agreement, which can even be manipulatively used in the sense of a “presumptuous ‘We’”108. Disagreement can help to police such distortions of deliberative processes by challenging superficial agreements. Disagreements may thus signal that a deliberative process is not contaminated with dysfunctional agreements stemming from polarization or superficiality. Protecting our discourse against such contaminations is valuable even if we do not come to terms. Each of the opposing positions will profit from the catharsis it received “by looking the negative in the face and tarrying with it”.

These advantages of disagreement in collective deliberations are mirrored on the individual level. Even if the probability of reaching a consensus with our opponents is very low from the beginning, as might be the case in deeply entrenched conflicts, entering into an exchange of arguments can still serve to test and improve our position. We have to do the “labor of the negative” for ourselves. Even if we cannot come up with a line of argument that coheres well with everybody else’s beliefs, attitudes and dispositions, we can still come up with a line of argument that achieves this goal for our own personal beliefs, attitudes and dispositions. To provide ourselves with the most coherent system of our own beliefs, attitudes and dispositions is – at least in important issues – an aspect of personal integrity – to borrow one of Dworkin’s favorite expressions for a less aspirational idea.

In hard cases we must – in some way – lay out the argument for ourselves to figure out what we believe to be the right answer. We might not know what we believe ourselves in questions of abortion, the death penalty, torture, and stem cell research, until we have developed a line of argument against the background of our subjective beliefs, attitudes and dispositions. In these cases it might be rational to discuss the issue with someone unlikely to share some of our more fundamental convictions or who opposes the view towards which we lean. This might even be the most helpful way of corroborating a view, because we know that our adversary is much more motivated to find a potential flaw in our argument than someone with whom we know we are in agreement. It might be more helpful to discuss a liberal position with Scalia than with Breyer if we want to make sure that we have not overlooked some counter‐argument to our case.

It would be too narrow an understanding of our practice of legal disagreement and argumentation if we restricted its purpose to persuading an adversary in the case at hand and inferred from this narrow understanding the irrationality of argumentation in hard cases, in which we know beforehand that we will not be able to persuade. Rational argumentation is a much more complex practice in a more complex social framework. Argumentation with an adversary can have purposes beyond persuading him: to test one’s own convictions, to engage our opponent in inferential commitments and to persuade third parties are only some of these; to rally our troops or express our convictions might be others. To make our peace with Kant we could say that “there must be a hope of coming to terms” with someone though not necessarily with our opponent, but maybe only a third party or even just ourselves and not necessarily only on the issue at hand, but maybe through inferential commitments in a different arena.

f) The Advantage Over Non‐Argumentative Alternatives

It goes without saying that in real world legal disagreements, all of the reasons listed above usually play in concert and will typically hold true to different degrees relative to different participants in the debate: There will be some participants for whom our hope of coming to terms might still be justified and others for whom only some of the other reasons hold and some for whom it is a mixture of all of the reasons in shifting degrees as our disagreements evolve. It is also apparent that, with the exception of the first reason, the rationality of our disagreements is of a secondary nature. The rational does not lie in the discovery of a single right answer to the topic of debate, since in hard cases there are no single right answers. Instead, our disagreements are instrumental to rationales which lie beyond the topic at hand, like the exploration of our communalities or of our inferential commitments. Since these reasons are of this secondary nature, they must stand up to alternative ways of settling irreconcilable disagreements that have other secondary reasons in their favor – like swiftness of decision making or using fewer resources. Why does our legal practice require lengthy arguments and discursive efforts even in appellate or supreme court cases of irreconcilable legal disagreements? The closure has to come by some non‐argumentative mean and courts have always relied on them. For the medieval courts of the Germanic tradition it is bequeathed that judges had to fight it out literally if they disagreed on a question of law – though the king allowed them to pick surrogate fighters.109 It is understandable that the process of civilization has led us to non‐violent non‐ argumentative means to determine the law. But what was wrong with District Judge Currin of Umatilla County in Oregon, who – in his late days – decided inconclusive traffic violations by publicly flipping a coin?110 If we are counting heads at the end of our lengthy argumentative proceedings anyway, why not decide hard cases by gut voting at the outset and spare everybody the cost of developing elaborate arguments on questions, where there is not fact of the matter to be discovered?

#### Third—small schools disad: under-resourced are most adversely effected by a massive, unpredictable caselist which worsens structural disparities

#### Topical version—defend removing patent protections for birth control and reproductive medicine

#### Disads to the TVA prove there are negative ground and that it’s a contestable stasis point which means we don’t have to “solve” the whole aff

#### Reject the team—T is question of models of debate and the damage to our strategy was already done

#### Competing interps—they have to proactively to justify their model and reasonability links to our offense

#### No rvis or impact turns—it’s their burden to prove their topical. Beating back T doesn’t prove their advocacy is good

#### Indepdently, new non-topical AFFs are a reason to reject the team---literally infinite potential topics for discussion coupled with lack of disclosure means that being prepared is structurally impossible.

## 2

#### To cope with the crisis of collapsing modernity, subjects engage in self-actualization that abandons collective faith in norms and institutions in favor of emancipatory performance that necessitates a right-wing politics of exclusion. Their attempt to disrupt a social system or debate creates a safety valve for capitalism’s fundamental contradiction.

Bluhdorn 07 – (May 2007, Ingolfur, PhD, Reader in Politics/Political Sociology, University of Bath, “Self-description, Self-deception, Simulation: A Systems-theoretical Perspective on Contemporary Discourses of Radical Change,” Social Movement Studies, Vol. 6, No. 1, 1–20, May 2007, google scholar)

Yet the **established patterns of self-construction, which** thus **have to be defended and** further **developed** at any price, **have fundamental problems** attached to them: ﬁrstly, **the attempt to constitute, on the basis of** product choices and acts of **consumption, a Self and identity** that are **distinct from and autonomous vis-a`-vis the market is a contradiction in terms**. Secondly, **late-modern society’s established patterns of consumption are known to be socially exclusive and environmentally destructive**. Despite all hopes for ecological modernization and revolutionary improvements in resource efﬁciency (e.g. Weizsa¨cker et al., 1998; Hawkenet al., 1999; Lomborg, 2001), **physical environmental limits imply that the lifestyles and established patterns of consumption** cherished by advanced modern societies **cannot even be extended to all residents of the richest countries**, let alone to the populations of the developing world. For the sake of the (re)construction of an ever elusive Self, **in their struggle against self-referentiality** and in pursuit of the regeneration of difference, **late-modern societies are** thus **locked into the imperative of maintaining** and further developing the principle of **exclusion** (Blu¨hdorn, 2002, 2003). At any price they have to, and indeed do, defend **a lifestyle that requires ever increasing social inequality, environmental degradation, predatory resource wars, and the tight policing of potential internal and external enemies**.14 For this effort, **military and surveillance technology provide ever more sophisticated and efﬁcient means**. Nevertheless, the principle of **exclusion is ultimately still unsustainable, not only because of spiralling ‘security’ expenses but also because it** directly **contradicts the** modernist **notion of the free and autonomous individual** that late-modern society desperately aims to sustain. For this reason, late-modern society is confronted with the task of having to sustain both the late-modern principle of exclusion as well as its opposite, i.e. the modernist principle of inclusion. Very importantly, the conﬂict between the principles of exclusion and inclusion is not simply one between different individuals, political actors or sections of society. Instead, it is a politically irresolvable conﬂict that resides right within the late-modern individual, the late-modern economy and late-modern politics. And if, as Touraine notes, late-modern society no longer believes in nor even desires political transcendence, the particular challenge is that the two principles can also no longer be attributed to different dimensions of time, i.e. the former to the present, and the latter to some future society. Instead, late-modern society needs to represent and reproduce itself and its opposite at the same time. If considered **within this framework** of this analysis, the function of Luhmann’s system of protest communication, or in the terms of this article, **the signiﬁcance of** late-modern societies’ **discourses of radical change becomes immediately evident**. **At a stage when the possibility** and desirability **of transcending** the principle of **exclusion has been pulled into** radical **doubt but when**, at the same time, the principle of **inclusion is vitally important**, **these discourses simulate the validity of the latter as a social ideal**. In other words, **latemodern society reconciles the tension between the** cherished but exclusive **status quo** – for which there is no alternative – **and the non-existent** inclusive **alternative** – on whose existence it depends – **by means of simulation**. The analysis of Luhmann’s work has demonstrated how the societal self-descriptions produced by the system of protest communication, or late-modern society’s discourses of radical change, fulﬁl this function exactly. **They are** an **indispensable** function system not so much because they help to resolve late-modern society’s problems of mal-coordination, but because by performing the possibility of the alternative they help to cope with the fundamental problem of self-referentiality. In this sense, late-modern society’s discourses of sustainability, democratic renewal, social inclusion or global justice, to name but a few, suggest that advanced modern society is working towards an environmentally and socially inclusive alternative – genuinely modern – society, but they do not deny the fact that the big utopia and project of late-modern society is the reproduction and further enhancement of the status quo, i.e. the sustainability of the principle of exclusion. Protest movements as networks of physical actors and actions complement the purely communicative **discourses of radical change** in that they bring their narrative and societal selfdescription to life. Whilst the declarations of institutionalized mainstream politics cannot escape the generalized suspicion that they are purely rhetorical, social movements **provide an arena for** the physical expression and **experience of the authenticity and reality of the alternative**

#### Feminism has been coopted to serve neoliberal interests based in individualism that occludes class struggle—the Aff fails since it doesn’t center class as the basis for solidarity and challenging sexism.

Fraser 13 Nancy Fraser, Writer for the Guardian, “How Feminism Became Capitalism’s Handmaiden.” The Guardian. October 14, 2013. <https://www.theguardian.com/commentisfree/2013/oct/14/feminism-capitalist-handmaiden-neoliberal>

As a feminist, I've always assumed that by fighting to emancipate women I was building a better world – more egalitarian, just and free. But lately I've begun to worry that ideals pioneered by feminists are serving quite different ends. I worry, specifically, that our critique of sexism is now supplying the justification for new forms of inequality and exploitation.

In a cruel twist of fate, I fear that the movement for women's liberation has become entangled in a dangerous liaison with neoliberal efforts to build a free-market society. That would explain how it came to pass that feminist ideas that once formed part of a radical worldview are increasingly expressed in individualist terms. Where feminists once criticised a society that promoted careerism, they now advise women to "lean in". A movement that once prioritised social solidarity now celebrates female entrepreneurs. A perspective that once valorised "care" and interdependence now encourages individual advancement and meritocracy.

What lies behind this shift is a sea-change in the character of capitalism. The state-managed capitalism of the postwar era has given way to a new form of capitalism – "disorganised", globalising, neoliberal. [Second-wave feminism](http://en.wikipedia.org/wiki/Second-wave_feminism) emerged as a critique of the first but has become the handmaiden of the second.

With the benefit of hindsight, we can now see that the movement for women's liberation pointed simultaneously to two different possible futures. In a first scenario, it prefigured a world in which gender emancipation went hand in hand with participatory democracy and social solidarity; in a second, it promised a new form of liberalism, able to grant women as well as men the goods of individual autonomy, increased choice, and meritocratic advancement. Second-wave feminism was in this sense ambivalent. Compatible with either of two different visions of society, it was susceptible to two different historical elaborations.

As I see it, feminism's ambivalence has been resolved in recent years in favour of the second, liberal-individualist scenario – but not because we were passive victims of neoliberal seductions. On the contrary, we ourselves contributed three important ideas to this development.

One contribution was our critique of the "family wage": the ideal of a male breadwinner-female homemaker family that was central to state-organised capitalism. Feminist criticism of that ideal now serves to legitimate "flexible capitalism". After all, this form of capitalism relies heavily on women's waged labour, especially low-waged work in service and manufacturing, performed not only by young single women but also by married women and women with children; not by only racialised women, but by women of virtually all nationalities and ethnicities. As women have poured into labour markets around the globe, state-organised capitalism's ideal of the family wage is being replaced by the newer, more modern norm – apparently sanctioned by feminism – of the two-earner family.

Never mind that the reality that underlies the new ideal is depressed wage levels, decreased job security, declining living standards, a steep rise in the number of hours worked for wages per household, exacerbation of the double shift – now often a triple or quadruple shift – and a rise in poverty, increasingly concentrated in female-headed households. Neoliberalism turns a sow's ear into a silk purse by elaborating a narrative of female empowerment. Invoking the feminist critique of the family wage to justify exploitation, it harnesses the dream of women's emancipation to the engine of capital accumulation.

[Feminism](https://www.theguardian.com/world/feminism) has also made a second contribution to the neoliberal ethos. In the era of state-organised capitalism, we rightly criticised a constricted political vision that was so intently focused on class inequality that it could not see such "non-economic" injustices as domestic violence, sexual assault and reproductive oppression. Rejecting "economism" and politicising "the personal", feminists broadened the political agenda to challenge status hierarchies premised on cultural constructions of gender difference. The result should have been to expand the struggle for justice to encompass both culture and economics. But the actual result was a one-sided focus on "gender identity" at the expense of bread and butter issues. Worse still, the feminist turn to identity politics dovetailed all too neatly with a rising neoliberalism that wanted nothing more than to repress all memory of social equality. In effect, we absolutised the critique of cultural sexism at precisely the moment when circumstances required redoubled attention to the critique of political economy.

Finally, feminism contributed a third idea to neoliberalism: the critique of welfare-state paternalism. Undeniably progressive in the era of state-organised capitalism, that critique has since converged with neoliberalism's war on "the nanny state" and its more recent cynical embrace of NGOs. A telling example is "microcredit", the programme of small bank loans to poor women in the global south. Cast as an empowering, bottom-up alternative to the top-down, bureaucratic red tape of state projects, microcredit is touted as the feminist antidote for women's poverty and subjection. What has been missed, however, is a disturbing coincidence: microcredit has burgeoned just as states have abandoned macro-structural efforts to fight poverty, efforts that small-scale lending cannot possibly replace. In this case too, then, a feminist idea has been recuperated by neoliberalism. A perspective aimed originally at democratising state power in order to empower citizens is now used to legitimise marketisation and state retrenchment.

In all these cases, feminism's ambivalence has been resolved in favour of (neo)liberal individualism. But the other, solidaristic scenario may still be alive. The current crisis affords the chance to pick up its thread once more, reconnecting the dream of women's liberation with the vision of a solidary society. To that end, feminists need to break off our dangerous liaison with neoliberalism and reclaim our three "contributions" for our own ends.

First, we might break the spurious link between our critique of the family wage and flexible capitalism by militating for a form of life that de-centres waged work and valorises unwaged activities, including – but not only – carework. Second, we might disrupt the passage from our critique of economism to identity politics by integrating the struggle to transform a status order premised on masculinist cultural values with the struggle for economic justice. Finally, we might sever the bogus bond between our critique of bureaucracy and free-market fundamentalism by reclaiming the mantle of participatory democracy as a means of strengthening the public powers needed to constrain capital for the sake of justice.

#### Capitalism causes war, violence, environmental destruction and extinction.

Robinson 18 (William I., Prof. of Sociology, Global and International Studies, and Latin American Studies, @ UC-Santa Barbara, “Accumulation Crisis and Global Police State” Critical Sociology) RE

Each major episode of crisis in the world capitalist system has presented the potential for systemic change. Each has involved the breakdown of state legitimacy, escalating class and social struggles, and military conflicts, leading to a restructuring of the system, including new institutional arrangements, class relations, and accumulation activities that eventually result in a restabilization of the system and renewed capitalist expansion. The current crisis shares aspects of earlier system-wide structural crises, such as of the 1880s, the 1930s or the 1970s. But there are six interrelated dimensions to the current crisis that I believe sets it apart from these earlier ones and suggests that a simple restructuring of the system will not lead to its restabilization – that is, our very survival now requires a revolution against global capitalism (Robinson, 2014). These six dimensions, in broad strokes, present a “big picture” context in which a global police state is emerging. First, the system is fast reaching the ecological limits of its reproduction. We have already passed tipping points in climate change, the nitrogen cycle, and diversity loss. For the first time ever, human conduct is intersecting with and fundamentally altering the earth system in such a way that threatens to bring about a sixth mass extinction (see, e.g., Foster et al., 2011; Moore, 2015). These ecological dimensions of global crisis have been brought to the forefront of the global agenda by the worldwide environmental justice movement. Communities around the world have come under escalating repression as they face off against transnational corporate plunder of their environment. While capitalism cannot be held solely responsible for the ecological crisis, it is difficult to imagine that the environmental catastrophe can be resolved within the capitalist system given capital’s implacable impulse to accumulate and its accelerated commodification of nature. Second, the level of global social polarization and inequality is unprecedented. The richest one percent of humanity in 2016 controlled over half of the world’s wealth and 20 percent controlled 95 percent of that wealth, while the remaining 80 percent had to make do with just five percent (Oxfam, 2017). These escalating inequalities fuel capitalism’s chronic problem of overaccumulation: the TCC cannot find productive outlets to unload the enormous amounts of surplus it has accumulated, leading to chronic stagnation in the world economy (see next section). Such extreme levels of social polarization present a challenge of social control to dominant groups. As Trumpism in the United States as well as the rise of far-right and neo-fascist movements in Europe so well illustrate, cooptation also involves the manipulation of fear and insecurity among the downwardly mobile so that social anxiety is channeled towards scapegoated communities. This psychosocial mechanism of displacing mass anxieties is not new, but it appears to be increasing around the world in the face of the structural destabilization of capitalist globalization. Extreme inequality requires extreme violence and repression

that lend themselves to projects of 21st century fascism. Third, the sheer magnitude of the means of violence and social control is unprecedented, as well as the magnitude and concentrated control over the means of global communication and the production and circulation of symbols, images, and knowledge. Computerized wars, drone warfare, robot soldiers, bunker-buster bombs, a new generation of nuclear weapons, satellite surveillance, cyberwar, spatial control technology, and so forth, have changed the face of warfare, and more generally, of systems of social control and repression. We have arrived at the panoptical surveillance society, a point brought home by Edward Snowden’s revelations in 2013, and the age of thought control by those who control global flows of communication and symbolic production. If global capitalist crisis leads to a new world war the destruction would simply be unprecedented. Fourth, we are reaching limits to the extensive expansion of capitalism, in the sense that there are no longer any new territories of significance to integrate into world capitalism and new spaces to commodify are drying up. The capitalist system is by its nature expansionary. In each earlier structural crisis, the system went through a new round of extensive expansion – from waves of colonial conquest in earlier centuries, to the integration in the late 20th and early 21st centuries of the former socialist countries, China, India and other areas that had been marginally outside the system. There are no longer any new territories to integrate into world capitalism. At the same time, the privatization of education, health, utilities, basic services, and public lands is turning those spaces in global society that were outside of capital’s control into “spaces of capital,” so that intensive expansion is reaching depths never before seen. What is there left to commodify? Where can the system now expand? New spaces have to be violently cracked open and the peoples in these spaces must be repressed by the global police state.

#### The alternative is to build class solidarity around a new socialist movement focused on making concrete demands and progress that can transform American society. That vision is necessary to propel movements to challenge right-wing movements, dismantle misogynist political formations, and save lives.

Schwartz and Sunkara 17 [August 1, 2017; JOSEPH M. SCHWARTZ (Joseph M. Schwartz is the national vice-chair of the Democratic Socialists of America, and professor of political science at Temple) and BHASKAR SUNKARA (Bhaskar Sunkara is an American political writer, founding editor and publisher of Jacobin magazine and the publisher of Catalyst: A Journal of Theory and Strategy. He is a former vice-chair of the Democratic Socialists of America); “What Should Socialists Do?”; <https://jacobinmag.com/2017/08/socialist-left-democratic-socialists-america-dsa>; //BWSWJ]

The Democratic Socialists of America (DSA) has 25,000 members. Its growth over the past year has been massive — tripling in size — and no doubt a product of the increasing rejection of a bipartisan neoliberal consensus that has visited severe economic insecurity on the vast majority, particularly among young workers. No socialist organization has been this large in decades. The possibilities for transforming American politics are exhilarating. In considering how to make such a transformation happen, we might be tempted to usher those ranks of new socialists into existing vehicles for social change: community organizations, trade unions, or electoral campaigns — organizations more likely to win immediate victories for the workers that are at the center of our vision. Why not put our energy and hone our skills where they seem to be needed the most? Workers’ needs are incredibly urgent; shouldn’t we drop everything and join in these existing struggles right now? While it’s crucial to be deeply involved in such struggles as socialists, we also have something unique to offer the working class, harnessing a logic that supports but is different from the one that organizers for those existing vehicles operate under. Here’s a sketch of a practical approach rooted in that vision that can win support for democratic social change in the short run and a majority for socialist transformation in the long run. Fighting for “Non-Reformist Reforms” For socialists, theory and practice must be joined at the hip. Socialists work for reforms that weaken the power of capital and enhance the power of working people, with the aim of winning further demands — what André Gorz called “non-reformist reforms.” We want to move towards a complete break with the capitalist system. Socialists, unlike single-issue activists, know that democratic victories must be followed by more democratic victories, or they will be rolled back. Single-payer health care is a classic example of a “non-reformist” reform, one that would pry our health system free from capital’s iron grip and empower the working class by nationalizing the private health insurance industry. But socialists conceive of this struggle differently than single-issue advocates of Medicare for All. Socialists understand that single payer alone cannot deal with the cost spiral driven by for-profit hospital and pharmaceutical companies. If we do achieve a national (or state-level) single-payer system, the fight wouldn’t be over; socialists would then fight for nationalization of the pharmaceutical industry. A truly socialized health care system (as in Britain and Sweden) would nationalize hospitals and clinics staffed by well-paid, unionized health care workers. Socialists can and should be at the forefront of fights like this today. To do so, we must gain the skills needed to define who holds power in a given sector and how to organize those who have a stake in taking it away from them. But we can’t simply be the best activists in mass struggles. Single-issue groups too often attack a few particularly bad corporate actors without also arguing that a given crisis cannot be solved without curtailing capitalist power. Socialists not only have to be the most competent organizers in struggle, but they have to offer an analysis that reveals the systemic roots of a particular crisis and offer reforms that challenge the logic of capitalism. Building a Majority As socialists, our analysis of capitalism leads us to not just a moral and ethical critique of the system, but to seeing workers as the central agents of winning change. This isn’t a random fetishizing of workers — it’s based on their structural position in the economy. Workers have the ability to disrupt production and exchange, and they have an interest in banding together and articulating collective demands. This makes them the key agents of change under capitalism. This view can be caricatured as ignoring struggles for racial justice, immigrant rights, reproductive freedom, and more. But nothing could be further from the truth. The working class is majority women and disproportionately brown and black and immigrant; fighting for the working class means fighting on precisely these issues, as well as for the rights of children, the elderly, and all those who cannot participate in the paid labor market. Socialists must also fight on the ideological front. We must combat the dominant ideology of market individualism with a compelling vision of democracy and freedom, and show how only in a society characterized by democratic decision-making and universal political, civil, and social rights

can individuals truly flourish. If socialist activists cannot articulate an attractive vision of socialist freedom, we will not be able to overcome popular suspicion that socialism would be a drab, pseudo-egalitarian, authoritarian society. Thus we must model in our own socialist organizations the democratic debate, peaceful conflict, and social solidarity that would characterize a socialist world. A democratic socialist organization that doesn’t have a rich and accessible internal educational life will not develop an activist core who can be public tribunes for socialism. Activists don’t stay committed to building a socialist organization unless they can articulate to themselves and others why even a reformed capitalism remains a flawed, undemocratic society. The Power of a Minority But socialists must also be front and center in struggles to win the short-term victories that empower people and lead them to demand more. Socialists today are a minority building and pushing forward a potential, progressive anti-corporate majority. We have no illusions that the dominant wing of the Democrats are our friends. Of course, most levels of government are now run by Republicans well to the right of them. But taking on neoliberal Democrats must be part of a strategy to defeat the far right. Take the Democrats, who are showing what woeful supposed leaders of “the resistance” they are every day. Contrary to the party leadership’s single-note insistence, the Russians did not steal the election for Trump; rather, a tepid Democratic candidate who ran on expertise and competence lost because her corporate ties precluded her articulation of a program that would aid the working class — a $15 minimum wage, Medicare for All, free public higher education. Clinton failed to gain enough working-class votes of all races to win the key states in the former industrial heartland; she ended up losing to the most disliked, buffoonish presidential candidate in history. If we remain enthralled to Democratic politics-as-usual, we’re going to continue being stuck with cretins like Donald Trump. Of course, progressive and socialist candidates who openly reject the neoliberal mainstream Democratic agenda may choose for pragmatic reasons to use the Democratic Party ballot line in partisan races. But whatever ballot line the movement chooses to use, we must always be working to increase the independent power of labor and the Left. Sanders provides an example: it’s hard to imagine him offering a radical opening to using the “s” word in American politics for his openly independent campaign if he had run on an independent line. Bernie also showed the strength of socialists using coalition politics to build a short-term progressive majority and to win people over to a social-democratic program and, sometimes, to socialism. Sanders gained the support of six major unions; if we had real social movement unionism in this country, he would have carried the banner of the entire organized working-class movement. Bernie’s weaker performance than Clinton among voters of color — though not among millennials of color — derived mostly from his being a less known commodity. But it also demonstrated that socialists need deeper social roots among older women and communities of color. That means developing the organizing strategies that will better implant us in the labor movement and working-class communities, as well as struggles for racial justice and gender and sexual emancipation. Socialists have the incumbent obligation to broaden out the post-Sanders, anti-corporate trend in US politics into a working-class “rainbow coalition.” We must also fight our government’s imperialist foreign policy and push to massively cut wasteful “defense” spending. We should be involved in multiracial coalitions, fighting for reforms like equitable public education and affordable housing. Democratic socialists can be the glue that brings together disparate social movement that share an interest in democratizing corporate power. We can see the class relations that pervade society and how they offer common avenues of struggle. But at 25,000 members, we can’t substitute ourselves for the broader currents needed to break the power of both far-right nativist Republicans and pro-corporate neoliberal Democrats. We have to work together with broader movements that may not be anti-capitalist but remain committed to reforms. These movements have the potential to win material improvements for workers’ lives. If we stay isolated from them, we will slide into sectarian irrelevance. Of course, socialists should endeavor to build their own organizational strength and to operate as an independent political force. We cannot mute our criticism against business unionist trends in the labor movement and the middle-class professional leadership of many advocacy groups. But in the here and now, we must also help win those victories that will empower workers to conceive of more radical democratic gains. Our members are disproportionately highly educated, young, male, and white. To win victories, we must pursue a strategy and orientation that makes us more representative of the working class. Grasping the Moment In the final analysis, socialists must be both tribunes for socialism and the best organizers. That’s how the Communist Party grew rapidly from 1935-1939. They set themselves up as the left wing of the CIO and of the New Deal coalition, and grew from twenty thousand to one hundred thousand members during that period. The Socialist Party, on the other hand, condemned the New Deal as “a restoration of capitalism.” In saying so they were partly right: the New Deal was in part about saving capitalism from itself. But such a stance was also profoundly wrong in that it distanced the Socialist Party from popular struggles from below, including those for workers’ rights and racial equality that forced capital to make important concessions. This rejection was rooted in a concern that those struggles were “reformist”; it led the SP to fall from twenty thousand members in 1935 to three thousand in 1939. Of course, there are also negative lessons to be learned from the Communist growth during the Popular Front period. They hid their socialist identity in an attempt to appeal to the broadest swath of Americans possible. When forced to reveal it, they referred to an authoritarian Soviet Union as their model. And by following Moscow’s line on the Hitler-Stalin Pact and then the no-strike pledge during World War II, the party abandoned the most militant sectors of the working class. Thus, the Communists put themselves in a position that prevented them from ever winning hegemony within the US working-class movement from liberal forces. Still, the Popular Front was the last time socialism had any mass presence in the United States — in part because, in its own way, the Communists rooted their struggles for democracy within US political culture while trying to build a truly multiracial working-class movement. The road to DSA becoming a real working-class organization runs through us becoming the openly socialist wing of a mass movement opposed to a bipartisan neoliberal consensus. If we only become better organizers, with more practical skills in door-knocking and phone-banking and one-on-one conversations, we will likely see the defection of many of our most skilled organizers who will take those skills and get jobs doing “mass work” in reformist organizations. Such a defection bedeviled DSA in the 1980s, leading to a “donut” phenomenon — thousands of members embedded in mass movements, but few building the center of DSA as an organization. We must avoid this. Simultaneously, if we don’t relate politically to social forces bigger than our own, DSA could devolve into merely a large socialist sect or subculture. The choice to adopt a strategy that would move us towards becoming a mass socialist organization with working-class roots is ours. This is the most promising moment for the socialist left in decades. If we take advantage of it, we can make our own history.

## Case

### 1NC – Presumption

#### You should vote negative on presumption – the affirmative’s advocacy of \_\_\_\_\_\_ does not solve the harms they’ve isolated for two reasons

#### A – Systems – the 1AC argues that material institutions like misogyny create the social realities that replicate violence but ceding the state refuses to alter these conditions

#### B – Spillover – the aff assumes that its advocacy of a certain affect is sufficient to result in the liberation of the flesh BUT they are missing a robust internal link to solving oppression inside OR outside the round

### 1NC – Psycho

#### They pathologize oppression. There is no single symbolic order. Engaging in politics can create fissures in libidinal investment.

Nancy FRASER 13. Louise Loeb Professor of Political and Social Science and Professor of Philosophy, The New School. *Fortunes of Feminism*. Verso Books. 140-9. Modified for ableist language.

-identities are produced by historically contingent practices and can change over time

-can’t explain how contingent power relations are produced

-homogenizes and flattens levels of oppression, obv racism worse than getting kicked in ankle but their theory would say both are irreversible, levels of suffering, distinctions b/w material implications, psychoanalysis papers over, makes it impossible to address more pressing problem; which problems black ppl are facing should be prioritized, black ppl face PIC, police, and beauty industry; psycho says all of those are equally bad, ppl have finite resources so should direct time to focus on PIC

-tautology bc says politics bad to explain why political actions are bad, self-referential: takes every bad thing and is like “you know what can explain that—psycho, see another bad thing and then explain by psychoananysis” cannot predict but can only explain stuff retroactively

Let me begin by posing two questions: What might a theory of discourse contribute to feminism? And what, therefore, should feminists look for in a theory of discourse? I suggest that a conception of discourse can help us understand at least four things, all of which are interrelated. First, it can help us understand how people’s social identities are fashioned and altered over time. Second, it can help us understand how, under conditions of inequality, social groups in the sense of collective agents are formed and unformed. Third, a conception of discourse can illuminate how the cultural hegemony of dominant groups in society is secured and contested. Fourth and finally, it can shed light on the prospects for emancipatory social change and political practice. Let me elaborate.

First, consider the uses of a conception of discourse for understanding social identities. The basic idea here is that people’s social identities are complexes of meanings, networks of interpretation. To have a social identity, to be a woman or a man, for example, just is to live and to act under a set of descriptions. These descriptions, of course, are not simply secreted by peoples’s bodies; nor are they simply exuded by people’s psyches. Rather, they are drawn from the fund of interpretive possibilities available to agents in specific societies. It follows that, in order to understand the gender dimension of social identity, it does not suffice to study biology or psychology. Instead, one must study the historically specific social practices through which cultural descriptions of gender are produced and circulated.3

Moreover, social identities are exceedingly complex. They are knitted together from a plurality of different descriptions arising from a plurality of different signifying practices. Thus, no one is simply a woman; one is rather, for example, a white, Jewish, middle-class woman, a philosopher, a lesbian, a socialist, and a mother.4 Because everyone acts in a plurality of social contexts, moreover, the different descriptions comprising any individual’s social identity fade in and out of focus. Thus, one is not always a woman in the same degree; in some contexts, one’s womanhood figures centrally in the set of descriptions under which one acts; in others, it is peripheral or latent.5 Finally, it is not the case that people’s social identities are constructed once and for all and definitively fixed. Rather, they alter over time, shifting with shifts in agents’ practices and affiliations. Even the way in which one is a woman will shift— as it does, to take a dramatic example-, when one becomes a feminist. In short, social identities are discursively constructed in historically specific social contexts; they are complex and plural; and they shift over time. One use of a conception of discourse for feminist theorizing, then, is in understanding social identities in their full socio-cultural complexity, thus in demystifying static, single variable, essentialist views of gender identity.

A second use of a conception of discourse for feminist theorizing is in understanding the formation of social groups. How does it happen, under conditions of domination, that people come together, arrange themselves under the banner of collective identities, and constitute themselves as collective social agents? How do class formation and, by analogy, gender formation occur?

Clearly, group formation involves shifts in people’s social identities and therefore also in their relation to social discourse. One thing that happens here is that pre-existing strands of identities acquire a new sort of salience and centrality. These strands, previously submerged among many others, are reinscribed as the nub of new self-definitions and affiliations.6 For example, in the current wave of feminist ferment, many of us who had previously been “women” in some taken-for-granted way have now become “ women” in the very different sense of a discursively self-constituted political collectivity. In the process, we have remade entire regions of social discourse. We have invented new terms for describing social reality— for example, “sexism,” “ sexual harassment,” “ marital, date, and acquaintance rape,” “ labor force sex-segregation,” “ the double shift,” and “ wife-battery.” We have also invented new language games such as consciousness raising and new, institutionalized public spheres such as the Society for Women in Philosophy.7 The point is that the formation of social groups proceeds by struggles over social discourse. Thus, a conception of discourse is useful here, both for understanding group formation and for coming to grips with the closely related issue of socio-cultural hegemony.

“Hegemony” is the Italian Marxist Antonio Gramsci’s term for the discursive face of power. It is the power to establish the “common sense” or “doxa” of a society, the fund of self-evident descriptions of social reality that normally go without saying.8 This includes the power to establish authoritative definitions of social situations and social needs, the power to define the universe of legitimate disagreement, and the power to shape the political agenda. Hegemony, then, expresses the advantaged position of dominant social groups with respect to discourse. It is a concept that allows us to recast the issues of social identity and social groups in the light of societal inequality. How do pervasive axes of dominance and subordination affect the production and circulation of social meanings? How does stratification along lines of gender, “race,” and class affect the discursive construction of social identities and the formation of social groups? The notion of hegemony points to the intersection of power, inequality, and discourse. However, it does not entail that the ensemble of descriptions that circulate in society comprise a monolithic and seamless web, nor that dominant groups exercise an absolute, topdown control of meaning. On the contrary, “hegemony” designates a process wherein cultural authority is negotiated and contested. It presupposes that societies contain a plurality of discourses and discursive sites, a plurality of positions and perspectives from which to speak. Of course, not all of these have equal authority. Yet conflict and contestation are part of the story. Thus, one use of a conception of discourse for feminist theorizing is to shed light on the processes by which the socio-cultural hegemony of dominant groups is achieved and contested. What are the processes by which definitions and interpretations inimical to women’s interests acquire cultural authority? What are the prospects for mobilizing counter-hegemonic feminist definitions and interpretations to create broad oppositional groups and alliances?

The link between these questions and emancipatory political practice is, I believe, fairly obvious. A conception of discourse that lets us examine identities, groups, and hegemony in the ways I have been describing would be of considerable use to feminist practice. It would valorize the empowering dimensions of discursive struggles without leading to “culturalist” retreats from political engagement.9 In addition, the right kind of conception would counter the disabling assumption that women are just passive victims of male dominance. That assumption over-totalizes male dominance, treating men as the only social agents- and rendering inconceivable our own existence as feminist theorists and activists. In contrast, the sort of conception I have been proposing would help us understand how, even under conditions of subordination, women participate in the making of culture.

2. LACANIANISM AND THE LIMITS OF STRUCTURALISM

In light of the foregoing, what sort of conception of discourse will be useful for feminist theorizing? What sort of conception best illuminates social identities, group formation, hegemony, and emancipatory practice?

In the postwar period, two approaches to theorizing language became influential among political theorists. The first is the structuralist model, which studies language as a symbolic system or code. Derived from Saussure, this model is presupposed in the version of Lacanian theory I shall be concerned with here; in addition, it is abstractly negated but not entirely superseded in deconstruction and in related forms of French “women’s writing.” The second influential approach to theorizing language may be called the pragmatics model, which studies language at the level of discourses, as historically specific social practices of communication. Espoused by such thinkers as Mikhail Bakhtin, Michel Foucault, and Pierre Bourdieu, this model is operative in some but not all dimensions of the work of Julia Kristeva and Luce Irigaray. In the present section of this chapter, I shall argue that the first, structuralist model is of only limited usefulness for feminist theorizing.

Let me begin by noting that there are good prima facie reasons for feminists to be suspicious of the structuralist model. This model constructs its object of study by abstracting from exactly what we need to focus on, namely, the social practice and social context o

f communication. Indeed, the abstraction from practice and context are among the founding gestures of Saussurean linguistics. Saussure began by splitting signification into langue, the symbolic system or code, and parole, speakers’ uses of language in communicative practice or speech. He then made the first of these, langue, the proper object of the new science of linguistics, and relegated the second, parole, to the status of a devalued remainder.10 At the same time, Saussure insisted that the study of langue be synchronic rather than diachronic; he thereby posited his object of study as static and atemporal, abstracting it from historical change. Finally, the founder of structuralist linguistics posited that langue was indeed a single system; he made its unity and systematicity consist in the putative fact that every signifier, every material, signifying element of the code, derives its meaning positionally through its difference from all of the others.

Together, these founding operations render the structuralist approach of limited utility for feminist purposes." Because it abstracts from parole, the structuralist model brackets questions of practice, agency, and the speaking subject. Thus, it cannot shed light on the discursive practices through which social identities and social groups are formed. Because this approach brackets the diachronic, moreover, it will not tell us anything about shifts in identities and affiliations over time. Similarly, because it abstracts from the social context of communication, the model brackets issues of power and inequality. Thus, it cannot illuminate the processes by which cultural hegemony is secured and contested. Finally, because the model theorizes the fund of available linguistic meanings as a single symbolic system, it lends itself to a monolithic view of signification that denies tensions and contradictions among social meanings. In short, by reducing discourse to a “symbolic system," the structuralist model evacuates social agency, social conflict, and social practice.12

Let me now try to illustrate these problems by means of a brief discussion of Lacanianism. By “Lacanianism," I do not mean the actual thought of Jacques Lacan, which is far too complex to tackle here. I mean, rather, an ideal-typical neo-structuralist reading of Lacan that is widely credited among English-speaking feminists.'5 In discussing “ Lacanianism,” I shall bracket the question of the fidelity of this reading, which could be faulted for overemphasizing the influence of Saussure at the expense of other, countervailing influences, such as Hegel.'4 For my purposes, however, this ideal-typical, Saussurean reading of Lacan is useful precisely because it evinces with unusual clarity the difficulties that beset many conceptions of discourse that are widely considered “ poststructuralist” but that remain wedded in important respects to structuralism. Because their attempts to break free of structuralism remain abstract, such conceptions tend finally to recycle it. Lacanianism, as discussed here, is a paradigm case of “neostructuralism.” '5

At first sight, neo-structuralist Lacanianism seems to promise some advantages for feminist theorizing. By conjoining the Freudian problematic of the construction of gendered subjectivity to the Saussurean model of structural linguistics, it seems to provide each with its needed corrective. The introduction of the Freudian problematic promises to supply the speaking subject that is missing in Saussure and thereby to reopen the excluded questions about identity, speech, and social practice. Conversely, the use of the Saussurean model promises to remedy some of Freuds deficiencies. By insisting that gender identity is discursively constructed, Lacanianism appears to eliminate lingering vestiges of biologism in Freud, to treat gender as sociocultural all the way down, and to render it in principle more open to change.

Upon closer inspection, however, the promised advantages fail to materialize. Instead, Lacanianism begins to look viciously circular. On the one hand, it purports to describe the process by which individuals acquire gendered subjectivity through their painful conscription as young children into a pre-existing phallocentric symbolic order. Here the structure of the symbolic order is presumed to determine the character of individual subjectivity. But, on the other hand, the theory also purports to show that the symbolic order must necessarily be phallocentric since the attainment of subjectivity requires submission to “the Father s Law.” Here, conversely, the nature of individual subjectivity, as dictated by an autonomous psychology, is presumed to determine the character of the symbolic order.

One result of this circularity is an apparently ironclad determinism. As Dorothy Leland has noted, the theory casts the developments it describes as necessary, invariant, and unalterable.16 Phallocentrism, womans disadvantaged place in the symbolic order, the encoding of cultural authority as masculine, the impossibility of describing a nonphallic sexuality— in short, any number of historically contingent trappings of male dominance— now appear as invariable features of the human condition. Womens subordination, then, is inscribed as the inevitable destiny of civilization.

I can spot several spurious steps in this reasoning, some of which have their roots in the presupposition of the structuralist model. First, to the degree Lacanianism has succeeded in eliminating biologism— and that is dubious for reasons I shall not go into here17 — it has replaced it with psychologism, the untenable view that autonomous psychological imperatives given independently of culture and history can dictate the way they are interpreted and acted on within culture and history.

[INSERT FOOTNOTE 17]

17 Here I believe one can properly speak of Lacan. Lacan’s claim to have overcome biologism rests on his insistence that the phallus is not the penis. However, many feminist critics have shown that he fails to prevent the collapse of the symbolic signifier into the organ. The clearest indication of this failure is his claim, in The Meaning of the Phallus,” that the phallus becomes the master signifier because of its “turgidity” which suggests “ the transmission of vital flow” in copulation. See Jacques Lacan, “ T h e Meaning of the Phallus,” in Feminine Sexuality: Jacques Lacan and the ecole freudienne, eds. Juliet Mitchell and Jacqueline Rose, New York: W.W. Norton & Company, 1982.

[END FOOTNOTE 17]

Lacanianism falls prey to psychologism to the extent that it claims that the phallocentricity of the symbolic order is required by the demands of an enculturation process that is itself independent of culture.18

If one half of Lacanianism’s circular argument is vitiated by psychologism, then the other half is vitiated by what I shall call symbolicism. By symbolicism I mean, first, the homogenizing reification of diverse signifying practices into a monolithic and all-pervasive “symbolic order,” and second, the endowing of that order with an exclusive and unlimited causal power to fix people’s subjectivities once and for all. Symbolicism, then, is an operation whereby the structuralist abstraction langue is troped into a quasi-divinity, a normative “symbolic order” whose power to shape identities dwarfs [stunts] to the point of extinction that of mere historical institutions and practices.

Actually, as Deborah Cameron has noted, Lacan himself equivocates on the expression “the symbolic order.” '9 Sometimes he uses this expression relatively narrowly to refer to Saussurean langue, the structure of language as a system of signs. In this narrow usage, Lacanianism would be committed to the implausible view that the sign system itself determines individuals’ subjectivities independently of the social context and social practice of its uses. At other times, Lacan uses the expression “ the symbolic order” far more broadly to refer to an amalgam that includes not only linguistic structures, but also cultural traditions and kinship structures, the latter mistakenly equated with social structure in general.20 In this broad usage, Lacanianism would conflate the ahistorical structural abstraction langue with variable historical phenomena like family forms and childrearing practices; cultural representations of love and authority in art, literature, and philosophy; the gender division of labor; forms of political organization and of other institutional sources of power and status. The result would be a conception of “the symbolic order” that essentializes and homogenizes contingent historical practices and traditions, erasing tensions, contradictions, and possibilities for change. This would be a conception, moreover, that is so broad that the claim that it determines the structure of subjectivity risks collapsing into an empty tautology.21

The combination of psychologism and symbolicism in Lacanianism results in a conception of discourse that is of limited usefulness for feminist theorizing. To be sure, this conception offers an account of the discursive construction of social identity. However, it is not an account that can make sense of the complexity and multiplicity of social identities, the ways they are woven from a plurality of discursive strands. Granted, Lacanianism stresses that the apparent unity and simplicity of ego identity is imaginary, that the subject is irreparably split both by language and drives. But this insistence on fracture does not lead to an appreciation of the diversity of the socio-cultural discursive practices from which identities are woven. It leads, rather, to a unitary view of the human condition as inherently tragic. In fact, Lacanianism differentiates identities only in binary terms, along the single axis of having or lacking the phallus. As Luce Irigaray has shown, this phallic conception of sexual difference is not an adequate basis for understanding femininity22— nor, I would add, masculinity. Still less, then, is it able to shed light on other dimensions of social identities, including ethnicity, color, and social class. Nor could the theory be emended to incorporate these manifestly historical phenomena, given its postulation of an ahistorical, tension-free “symbolic order” equated with kinship.23

Moreover, Lacanianism’s account of identity construction cannot account for identity shifts over time. It is committed to the general psychoanalytic proposition that gender identity (the only kind of identity it considers) is basically fixed once and for all with the resolution of the Oedipus complex. Lacanianism equates this resolution with the child’s entry into a fixed, monolithic, and all-powerful symbolic order. Thus, it actually increases the degree of identity fixity found in classical Freudian theory. It is true, as Jacqueline Rose points out, that the theory stresses that gender identity is always precarious, that its apparent unity and stability are always threatened by repressed libidinal drives.24 But this emphasis on precariousness is not an opening onto genuine historical thinking about shifts in peoples social identities. On the contrary, it is an insistence on a permanent, ahistorical condition, since for Lacanianism the only alternative to fixed gender identity is psychosis.

If Lacanianism cannot provide an account of social identity that is useful for feminist theorizing, then it is unlikely to help us understand the formation of social groups. For Lacanianism, affiliation falls under the rubric of the imaginary. To affiliate with others, to align oneself with others in a social movement, would be to fall prey to the illusions of the imaginary ego. It would be to deny loss and lack, to seek an impossible unification and fulfillment. Thus, from the perspective of Lacanianism, collective movements would by definition be vehicles of delusion; they could not even in principle be emancipatory.25

Moreover, insofar as group formation depends on linguistic innovation, it is untheorizable from the perspective of Lacanianism. Because Lacanianism posits a fixed, monolithic symbolic system and a speaker who is wholly subjected to it, it is inconceivable that there could ever be any linguistic innovation. Speaking subjects could only ever reproduce the existing symbolic order; they could not possibly alter it. From this perspective, the question of cultural hegemony is blocked from view. There can be no question as to how the cultural authority of dominant groups in society is established and contested, no question of unequal negotiations between different social groups occupying different discursive positions. For Lacanianism, on the contrary, there is simply “ f/ie symbolic order,” a single universe of discourse that is so systematic, so all-pervasive, so monolithic that one cannot even conceive of such things as alternative perspectives, multiple discursive sites, struggles over social meanings, contests between hegemonic and counterhegemonic definitions of social situations, conflicts of interpretation of social needs. One cannot even conceive, really, of a plurality of different speakers.

With the way blocked to a political understanding of identities, groups, and cultural hegemony, the way is also blocked to an understanding of political practice. For one thing, there is no conceivable agent of such practice. Lacanianism posits a view of the person as a non-sutured congeries of three moments, none of which can qualify as a political agent. The speaking subject is simply the grammatical “I,” a shifter wholly subjected to the symbolic order; it can only and forever reproduce that order. The ego is an imaginary projection, deluded about its own stability and self-possession, hooked on an impossible narcissistic desire for unity and self-completion; it therefore can only and forever tilt at windmills. Finally, there is the ambiguous unconscious, sometimes an ensemble of repressed libidinal drives, sometimes the face of language as Other, but never anything that could count as a social agent.

#### Vote neg on presumption---there’s no analysis beyond visuality or identity

Bryant, 14

(Levi Bryant, professor at Collin College. “The Impossibility of Psychoanalysis” <http://larvalsubjects.wordpress.com/2014/09/15/the-impossibility-of-psychoanalysis/>) Henge

Freud described psychoanalysis as being among the three impossible professions (teaching and governance being the other two). To Lacanian ears, of course, this quip resonates a bit differently, for “impossible”, in Lacanese, signifies “real”. The Lacanian real refers to a number of things, all of which can be retroactively detected in Freud’s famous statement about the impossibility of analysis. The Real sometimes signifies that which is impossible to represent. Certainly the psychoanalytic setting is impossible to represent. No matter how much Freud, Lacan, and psychoanalytic theory you read; no matter how many case studies you read; what takes place in the clinical setting will not be known to you. The only way to understand the clinic (and probably the concepts of psychoanalysis) is to go through the clinic. There’s simply no substitute for the experience of analysis itself and something slips away in every description of analysis. The Real sometimes signifies that which always returns to its place. Here, of course, the Real would be the symptom that animates and organizes the subject’s being. The symptom– at least in neurotics –is that which repeats in a variety of ways throughout their life. It is the Real of their being. The real sometimes signifies “impossible”, or formal deadlocks and antagonisms that are at the heart of being and social systems. Perhaps there is something impossible about psychoanalysis in this sense as well. What is it that makes psychoanalysis such an impossible art? Part of it has to do with the position the analyst strives to occupy. Somewhere or other (the Rome Discourse?), Lacan remarks that the analyst plays dead in the analytic setting. What could this possibly mean? Certainly the analyst speaks (on occasion), scands and punctuates the anlaysand’s speech (by going “hmmm” and a variety of other things), opens and terminates sessions, breaths, and occasionally coughs and sneezes. Her eyes are open and sometimes she even has expressions. What, then, does it mean to play dead? It seems to me that the death the good analyst seeks to embody is the death of any personal or individuating characteristics. The analyst strives for something impossible: to both be a face and to be completely faceless. The analyst strives for perfect anonymity and pure faciality. All signs of desire, inclination, taste, preference, politics, ethics, etc., ought to disappear from the analytic setting, so that the analyst might occupy the position of faciality as such. This is a truly monstrous ideal. Imagine would it would entail to be the perfect analyst or the perfect embodiment of this ideal. First, the perfect analyst would have to be invisible. The problem with visibility is that clothing, gesture, jewelry, make-up choices, hair choices, body art, etc., all indicate judgments of taste, ideologies, political beliefs, etc. These features of the analyst’s being might, in their turn, function as lures for the imaginary, functioning as points of identification that foreclose the analysand’s ability to encounter the truth of her own desire and symptom. “Of course my analyst wants me to be this, just look at how she dresses!” Similarly, the perfect analysis would never speak in public, nor publish any articles– or certainly wouldn’t do so in ways expressing personal convictions –for these public pronouncements too would get in the way of the analysand encountering the truth of their desire. On the level of relations to others, the perfect analyst would be someone without a trace; but not only is it impossible to relate to anyone if you’re without a trace, it’s impossible to live this way. It is impossible to live without a trace of desire. Everything about us, up to and including the practice of analysis, expresses desire in some form or other. There are good reasons for this ideal. At the end of The Four Fundamental Concepts of Psychoanalysis, Lacan writes, The analyst’s desire is not a pure desire. It is a desire to obtain absolute difference, a desire which intervenes when, confronted with the primary signifier, the subject is, for the first time, in a position to subject himself to it. In our day to day interpersonal relations we are poorly situated to determine the desire that animates our being. It’s always unclear whether our desire is our own or whether it is anothers desire. Is this my desire or is it theirs? Is this my affect or is it theirs? Are they angry at me or am I projecting my own anger onto them. By fashioning herself into a nonperson or a dead person, the analyst creates a strange sort of mirror. This mirror is strange for while it is indeed you that’s reflected in this mirror, you encounter yourself as alien and other in this mirror. You also encounter an other other (repetition intended) in the form of the analyst that embodies the mirror. Through the attempt to form such a strange mirror the analyst attempts to create a surface through which the absolute difference of the patient might be encountered and known. The question, however, is how anyone can ever come to occupy this unheimlich space.

#### Desires are contingent and conflicting

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(Adrian, *Time Driven: Metapsychology and the Splitting of the Drive*, Northwestern University Press, Jul 27, 2005, pg. 340-341)

In terms of the basic framework of metapsychology, Freud delineates two fundamental types of conflict disturbing yet organizing mental life—the conflict between drives and reality (as, most notably, the struggle In-tween the id and civilization) and the conflict between the drives themselves in la the story of Eros against the Todrstrieb). In both cases, the individual lends lo be portrayed as the overdetermined play-thing of powerful forces fighting semi-covert wars with each other just out of the ego's sight. However, Freud fails to discover a third dimension of conflict in relation to the libidinal economy—the conflict within each and every drive. The theoretical contribution of this project could easily be summarized as the identification of this distinct type of conflict and the explication of its sobering consequences for an understanding of the psyche. Despite the apparent bleakness and antiutopianism of an assessment of human nature as being perturbed by an irreducible inner antagonism, there is. surprisingly, what might be described as a liberating aspect to this splitting of the drives. Since drives are essentially dysfunctional, subjects are able to act otherwise than as would be dictated by in-stinctually compelled pursuits of gratification, satisfaction, and pleasure. In fact, subjects are forced to be free, since, for such beings, the mandate of nature is forever missing. Severed from a strictly biological master-program and saddled with a conflict-ridden, heterogeneous jumble of contradictory impulses—impulses mediated by an inconsistent, unstable web of multiple representations, indicated by Lacan's "barring" of the Symbolic Other—the parletre has no choice but to bump up against the unnatural void of its autonomy. The confrontation with this raid is frequently avoided. The true extent of one's autonomy is, due to its sometimes-frightening implications, just as often relegated to the shadows of the unconscious as those heteronomous factors secretly shaping conscious thought and behavior. The contradictions arising from the conflicts internal to the libidi-nal economy mark the precise places where a freedom transcending mundane materiality has a chance to briefly flash into effective existence; such points of breakdown in the deterministic nexus of the drives clear the space for the sudden emergence of something other than the smooth continuation of the default physical and sociopsychical "run of things." Moreover, if the drives were fully functional—and. hence, would not prompt a mobilization of a series of defensive distancing mechanisms struggling to transcend this threatening corpo-Real—humans would be animalistic automatons, namely, creatures of nature. The pain of a malfunctioning, internally conflicted libidinal economy is a discomfort signaling a capacity to be an autonomous subject. This is a pain even more essential to human autonomy than what Kant identifies .is the guilt-inducing burden of duty and its corresponding pangs of anxious, awe-inspiring respect. Whereas Kant treats the discomfort associated with duty as a symptom-effect of a transcendental freedom inherent to rational beings, the reverse might (also) be the case: Such freedom is the symptom-effect of a discomfort inherent to libidinal beings. Completely "curing" individuals of this discomfort, even if it were possible, would be tantamount to divesting them, whether they realize it or not, of an essential feature of their dignity as subjects. As Lacan might phrase it, the split Trieb is the sinthome of subjectivity proper, the source of a suffering that, were it to be entirely eliminated, would entail the utter dissolution of subjectivity itself. Humanity is free precisely insofar as its pleasures are far from perfection, insofar as its enjoyment is never absolute.

### 1NC – Fem

#### Debate over specific, concrete legal questions is good—if the law has formed liberal subject positions, it proves the law can be meaning-making—its our job to invert it for transformative purposes

Nikki Karalekas, PhD candidate in the Department of Women’s, Gender, and Sexuality Studies at Emory University, Spring 2014, Is Law Opposed to Politics for Feminists? The Case of the Lusty Lady, Feminist Formations Volume 26, Issue 1

From the suffrage movement to anti-pornography legislation, feminists have often engaged the law to achieve their political goals. Yet, since the 1990s, an influential group of feminist theorists, including Judith Butler, Wendy Brown, and Janet Halley, have suggested that the law is not a good tool for feminist politics. They argue that the law is not a neutral instrument for political change, but [End Page 27] rather extends and legitimates state power in ways that foreclose the dynamism of political activism (Brown 1995; Brown and Halley 2002; Butler 1997, 1999; Halley 2006). Consequently, these thinkers suggest that activists eschew legal tactics in favor of putatively nonlegal methods, such as direct and collective action; they argue that such methods are political rather than legal, and that politics, not law, should be the space wherein feminist activism occurs. This opposition between law and politics is a central analytic through which these prominent feminist theorists critique the law. This article focuses on the assumptions that underpin this critique of the law. It argues that this critique is based on a contradiction: on the one hand, these thinkers argue that the law is becoming more disciplinary in modernity—therefore, a diffuse form of power that produces political subjects**;** on the other, in response to the sinister features of disciplinary power, they suggest that feminists work within a sphere of politics that exists outside of the law. The resulting opposition between law and politics in their work undermines their idea that the law produces political subjects. This contradiction obscures the dynamic relationship between law and politics: without a more complex understanding of this relationship, these thinkers risk idealizing politics as outside of the law, thus missing the ways in which the law might potentially challenge disciplinary power and bolster politics. As a result, it is necessary to rethink the relationship between law and politics in feminist thought. I undertake such a rethinking through a case study of the 1996 unionization of the Lusty Lady, a strip club based in San Francisco. I argue that this case study illustrates that the very political practices that Brown, Butler, and Halley idealize as outside of the law are themselves deeply entangled with it. Highlighting this entanglement, I develop a new way of conceiving the relationship between law and politics so that the former can be understood to foster rather than foreclose politics. I show that the law can be a tool that embodies feminist political practices of resignification, collectivity, and agonistic democracy. I offer this new relationship as a model of how feminist theorists might rethink political engagement with the law. I begin by tracing the emergence of the feminist critique of the law in the work of early feminist legal theorists who argued that the law oppressed women. Next, I show that newer critiques of the law understand legal power not as oppressive, but as productive—meaning that it creates the very subjects it purports to represent**.** Since this conception suggests that there is no space outside of the law, it would follow that these feminist theorists should attempt to develop new approaches to engaging the law; instead, they inadvertently undermine their productive conception of the law by advocating forms of politics that ostensibly exist outside of it. This leads them to reject the law in a fashion similar to early feminist legal theorists. In contrast to this rejection, I explore the law as a productive form of power through a case study of the unionization of the Lusty Lady. Drawing on evidence [End Page 28] from documentary film and personal accounts, I show how the unionization effort exhibited Brown’s, Brown and Halley’s, Butler’s, and Halley’s accounts of politics while also constituting an engagement with the law. This not only highlights the ways in which law and politics are entangled with each other, but also demonstrates how the law can sometimes bolster politics and challenge disciplinary power. My conclusion draws on this case study to propose a new direction for scholarship on law and politics in feminist thought. Feminist Legal Skepticism: A Genealogy “The Oppressive Hypothesis” Since the early 1980s, feminist legal theorists have characterized the law as an oppressive, patriarchal institution. In this conception of legal power, which I call “the oppressive hypothesis,” law both codified and enacted patriarchal dominance over women. Nevertheless, for these thinkers, women’s experience existed relatively independent of legal institutions; women thus had opportunities to resist the law. Feminist theorists of this period offered two broad suggestions for such resistance: to either work within the law to change it, or to reject it altogether. However, although their political strategies differed, the feminist legal theorists whose work I examine here were united in their understanding of the law as a form of patriarchal oppression. Catharine A. MacKinnon is perhaps the best-known expositor of the view that law oppresses women. Her main legal goal was to challenge the equalityversus-difference paradigm, which often thwarted feminist engagements with the law during the 1970s and ’80s. In this paradigm, women were understood to be either equal to or different from men: if equal, the law could not recognize their particular embodied differences; if different, the law could not recognize them as equals. For MacKinnon (1987), both approaches failed because they measured women according to a patriarchal standard (40). The equality-versusdifference paradigm thus neglected to challenge the ways in which the law itself oppressed women. MacKinnon, by contrast, argued that feminists should try to transform the law to recognize and oppose the subordination of women under patriarchy (43). MacKinnon claimed that women are subordinated through sexuality. In her view, sex, both in act and in representation, eroticizes and reproduces male dominance and female subordination. As she explained in Toward a Feminist Theory of the State (1989, 128): “What is called sexuality is the dynamic of control by which male dominance … eroticizes and thus defines man and woman, gender identity, and sexual pleasure.” MacKinnon argued that the law abetted this dominance in its claim to being gender neutral; in reality, the law, for MacKinnon, has a male perspective: “So long as power enforced by law reflects and corresponds … to power enforced by men over women in society, law is objective, appears principled, [and] becomes just the way things are” (239). [End Page 29] As such, she understands the law as oppressing women, and to naturalize such oppression through its pretense of objectivity. Her legal project was oriented toward recognizing and eliminating this male dominance of sexuality. For MacKinnon, the oppression of law was exemplified in legal defenses of pornography as a protected form of speech under the First Amendment. She considered the amendment’s putative neutrality to be a mask for its basis in male dominance (1987, 207). Such dominance was, in her work, perhaps best epitomized by First Amendment defenses of pornography. Attempting to bypass accusations of censorship, in 1983, MacKinnon coauthored an ordinance for the city of Minneapolis that allowed women to file a civil rights suit against pornographers under tort law (Bronstein 2011, 251). Thus, while MacKinnon was critical of the law’s patriarchal character, she was committed to using the law as a tool against the extra-legal oppression of women. Her argument was adopted by members of the religious right, who opposed pornography from a moralistic perspective that upheld patriarchal values (24). MacKinnon’s theory of sexuality and inadvertent alliance with the religious right have led subsequent feminist theorists to criticize not only her continued reliance upon legal tools, but also on the law more generally.1 While many feminist legal theorists shared MacKinnon’s critique of the law as an oppressive institution, some took a harder position against engaging the law to bring about feminist political change. In Law and Politics at the Perimeter (2007), contemporary legal theorist Vanessa Munro explains that in the late 1980s, prominent feminist legal theorists Martha A. Fineman and Carol Smart became so skeptical of the law’s capacity to make real change in women’s lives that they advocated decentering it within feminist politics (67). Thus, by the early 1990s, growing numbers of feminist legal theorists were arguing, in opposition to MacKinnon, that the law could not significantly transform the gendered status quo, and that feminists should, therefore, not automatically take a legal approach to politics. In her “Introduction” to the 1985 anthology At the Boundaries of Law, Fineman argues that the law operated over and above lived experience, assimilating any diversity into its generalized and universalized categories (x–xi). Because of this, she explains that law reform “will do little more than the original rules to validate and accommodate women’s experiences” (xiv). In a later article, Fineman (1990, 40) built on this analysis to conclude that “I, for one, am a legal scholar who has lost faith. Feminism, it seems, has not and perhaps, cannot transform the law. Rather, the law when it becomes the battleground threatens to transform feminism.”2 Although Fineman did not explicitly endorse other strategies for political change, she emphasized that legal engagement was a particularly disastrous method for feminists in their efforts to challenge the patriarchal oppression of women. Similarly, in her 1989 book Feminism and the Power of Law, Smart argued that the law ignores and disqualifies women’s experiences (49). She wrote that [End Page 30] the legal process turned the experiences of women “into something that law can digest and process, i[n] a demonstration of the power of law to disqualify alternative accounts” (11). Thus, when feminists engage the law to resolve their political problems, they cede power to it and embolden its control over women’s lives (5). As a result, Smart argued that “feminist legal theory is immobilized in the face of the failure of feminism to affect law and the failure of law to transform the quality of women’s lives” (67). Like Fineman, she concluded that feminists should, therefore, criticize, but not utilize the law to make political change (78). In making this argument, Smart engaged with Michel Foucault’s claim that power was becoming increasingly disciplinary, rather than juridical, in modernity (Foucault [1977] 1995, 22).3 For Foucault, juridical power worked directly on bodies through the physical violence of the sovereign (53). Disciplinary power, in contrast, was decentralized and did not work on bodies, but through them (194). Rather than operating via physical violence, this form of power worked to standardize and individualize bodily practices through diverse discourses, including epidemiology, psychiatry, and criminology (202). Through these discourses, disciplinary power produced subjects; it was thus not “repressive,” but instead productive ([1978] 1990, 94–96). Because it denied the subject’s existence outside of power relations, this theory would seem to be at odds with these early feminist accounts of the power of law as oppressive, including Smart’s own. Although Smart accepted Foucault’s distinction between disciplinary and juridical power, she was ambivalent about the place of law in his conceptualization. In what she claimed was a departure from Foucault, Smart (1989) argued that the law had not been replaced by disciplinary power in modernity; instead, she suggested that the law was taking on the qualities of disciplinary power as it produced subjects through knowledge (8). Yet, at the same time, she suggested that the assimilation of the law into disciplinary power was only partial. Contrary to Foucault, she argued that the law, as a form of power, continued to operate as coordinated masculine structures that effaced women’s lived experiences; in this sense, Smart conceived the law as simultaneously disciplinary and juridical. Her political strategy was oriented toward the juridical conception of the law: by conceiving the law as, in part, directly oppressive, Smart was able to argue that women could and should avoid it altogether (163–65). Thus, although she acknowledged the imbrication of law with disciplinary power, she ultimately returned to the oppressive hypothesis when she suggested that women could and should eschew the law. This return created a contradiction implicit in Smart’s work: on the one hand, she suggested that the law was productive of subjects; and on the other, suggesting that subjects—in this case, women—somehow get outside of this productive power of the law by eschewing legal approaches to politics. This theoretical contradiction can also be found in the work of more contemporary feminist theorists who apply a Foucauldian perspective to the law (for example, Brown 1995; Butler 1999; Halley 2006). [End Page 31] The next generation of feminist theorists more overtly rejected the oppressive hypothesis when it came to understanding the power of law. Rather than characterizing law as oppressing women, they argued that it is productive of the very subject of “woman” itself. Nevertheless, although these feminists advanced a productive conception of law, their strategies for engaging it were not substantively different from those of Fineman and Smart: they also advocated eschewing legal approaches to politics. The result was a fundamental contradiction, which to understand, it is necessary to first examine the impact of poststructuralism on feminist thinking about the law. Law as Productive Power The early 1990s marked the advent of poststructuralism within feminist theory. Building on the work of Foucault, as well as on other French thinkers like Louis Althusser, Jacques Derrida, and Jacques Lacan, notable feminist theorists argued that the subject of feminism—woman—was not an a priori foundation for feminist politics; rather, they suggested that it was produced through language (Butler 1999; Riley 2003; Scott 1992). In this section, I read three prominent thinkers—Butler, Brown, and Halley—together to show how they applied this theory of language to the law in order to argue that the law was both disciplinary and productive. The result was a conception of the law that was significantly more expansive than that of the “oppressive” theorists: namely, as productive power, the law comes to animate, rather than simply act against, its subjects. Consequently, there is no space outside of the law in which feminists might react against it. While this productive theory of power should have led feminists to consider the necessity of engaging with the law, their conception of it as uniformly disciplinary led them to conclude that legal engagement would inevitably harm the very causes it intended to help. They concluded that feminists should, therefore, move away from engaging with the law and toward political strategies that were ostensibly disentangled from it. Thus, even as these thinkers transformed the feminist theory of law from oppressive to productive, their rejection of legal approaches in favor of politics inadvertently reinscribed an oppressive conception of legal power. As a result, these thinkers failed to fully develop the insights of their theory of law as productive power. In Gender Trouble (1999), Butler argued that gender was produced through language. By performing and repeating particular gendered practices, the subject comes to take on the attributes of a sedimented gender (45). This posed a problem for feminist politics: “It is not enough to inquire how women might become more fully represented in language and politics. Feminist critiques ought also to understand how the category of ‘women,’ the subject of feminism, is produced and restrained by the very structures of power through which emancipation is sought” (4). In other words, women are not simply excluded from power structures, but are actually produced through them. Therefore, if feminists turn to these power structures for political solutions, they risk extending and [End Page 32] entrenching the very conditions that produced their political situation to begin with. While this theory is well-known, there has been less recognition of the implicit understanding of law that underpins it. In the Preface to Gender Trouble, Butler explained that she developed her theory of gender performativity after reading Jacques Derrida’s 1989 essay “Force of Law: The ‘Mystical Foundations of Authority’” (xv). In this essay, Derrida reads Kafka’s parable “Before the Law” to argue that legal authority is not inherent within the law, but instead resides in its subjects. Referencing the essay, Butler wrote that “the one who waits for the law … attributes a certain force to the law for which one waits.” She wondered “whether we do not labor under a similar expectation concerning gender” (ibid.). Here, Butler argued that the law does not inherently hold power, but rather derives its force from the subject over which it purports to hold authority. This understanding of law is the basis for her understanding of gender: that gender derives its normative force through the subjects who perform it. While Butler is concerned with the mechanics of power that produce the idea that gender exists outside of language, it is important to note that this understanding of gender is based on her conception of the power of the law. However, in Gender Trouble, Butler was not referring to the law as a political institution; instead, she was referring to a Lacanian conception of the law as language, which produces gendered subjectivity through prohibition (60). She draws on Foucault’s conception of disciplinary power to suggest that this “law” has come to function as a productive form of regulation, not a juridical form of prohibition (130–31). Through this combination of Lacan and Foucault, Butler argues that gender is performative insofar as it “constitut[es] the identity it is purported to be” (34); at the same time, this performativity “inadvertently create[s] its own cultural displacement” (52). In this way, “performativity is a theory of agency” because it ultimately leads to the proliferation and resignification of language (xxv). The “law” thus produces gendered subjects through their gendered performances, while these subjects also resignify and thereby subvert the regulatory norms of gender (199). Butler uses the figure of the drag queen to illustrate this subversion: the drag queen resignifies the interiority and exteriority of sex and gender in ways that challenge the entire sex/gender system (186). Thus, in Gender Trouble, Butler combined Foucault’s conception of power with the “law” of psychoanalysis in order to suggest that gender is becoming more akin to productive power and less to prohibition. Yet, it is less clear in this text how she conceives of law in the institutional sense. In Excitable Speech (1997), Butler extends her theory of resignification to the law in the institutional sense. Here, she explores the capacity of language to injure, arguing that insulting speech not only harms, but also produces the subject in a particular way (2). She emphasizes that the meaning of an insult exceeds the intentions of its utterance because it is open to resignification by the very subject it produces (ibid.). Butler continues to suggest that these unfixed [End Page 33] and agentive qualities of language can be found in the law—that legal language can be “restaged and resignified [in] contexts that exceed those determined by the courts” (23). However, instead of understanding this instability to allow progressive activists to resignify the law, she worries that the courts will be able to use the mutability of language to their own advantage by skewing the meaning that activists had originally sought in their turn to the courts. Butler writes that “[s]trategies devised on the part of progressive legal and social movements … run the risk of being turned against those very movements by virtue of extending state power, specifically legal power, over the issue in question” (24). While in Gender Trouble, she surmises that resignification can subvert regulatory practices of gender, in Excitable Speech, Butler argues that practices of legal resignification consolidate state power against subjects. Thus, for her, resignification can subvert regulatory norms of gender, but cannot subvert regulatory norms within legal institutions. In “Double Law,” chapter 4 of her book Judith Butler: Ethics, Law, Politics (2007), legal theorist Elena Loizidou explicates this tension in Butler’s work, pointing out that Butler does not view the law as being exactly synonymous with the production of subjects via language (125). In Loizidou’s reading, Butler claims that language can be resignified in ways that subvert regulatory norms; the law, conversely, has the capacity to “totalize the sphere of intelligibility” in ways that limit resignification (ibid.). This tension can be found in Butler’s assertion, in Excitable Speech (1997, 77; emphasis in original), that “the state produces hate speech.” This assertion means that the state defines, via the law, a particular set of identities as injurious by a particular set of speech acts. This is the violence of “official” discourse: in producing a particular set of meanings as definitive, it obscures the very mechanics by which it defines (159). While, for Butler, the law takes on aspects of productive power, legal practices of resignification foreclose the proliferation of meaning in a way that extra-legal practices do not. Butler’s work thus contains an opposition between legal and nonlegal resignification that demonstrates her profound skepticism over engaging the law. This skepticism is also reflected in the work of both Brown and Halley, who express it not through the opposition of legal and nonlegal resignification, but instead through law and what they both call politics. In States of Injury (1995), Brown argues that the state needs to be scrutinized as a dense “transfer point” of power relations that work in “nonsovereign, nonrepressive, or productive, microphysical and capillary” ways (17). The state is not a centralized institution that operates in a coordinated manner to oppress subjects, but rather is diffuse and functions to produce subjects through a variety of uneven and unfixed discourses; thus, it is a conduit of disciplinary power. Throughout this text, Brown implies that the law is a means through which the state exercises disciplinary power (9, 21, 27, 28, 128–34). When identity-based groups seek legal recognition and redress from the state, they inadvertently extend disciplinary power (21). Because these groups need markers of oppression [End Page 34] in order to be recognized by the law, Brown further argues that the law leads them to desire, and even to depend on, their own victimization. She wonders if turning to law for protection will “codify within the law the very powerlessness it aims to redress?” (ibid.). Engaging the law thus traps activists in a circular logic of recognition and oppression: once one is recognized within the law as oppressed, one comes to require that oppression for such recognition. Moreover, since the law requires such epistemological claims to the fact of that identity, it extends the state’s power to fix the meaning of identity. This limits “all possibilities of indeterminacy, ambiguity, and struggle for resignification or repositioning” (27). In other words, the law forecloses the possibility of proliferating meaning, and all-too-often results in feminists accepting the fixed meaning that the state attributes to gender and sexual categories. In this way, Brown, like Butler, understands the law to fix meaning, thereby limiting the possibility of resignification. As an alternative to engaging the law, Brown advocates for ongoing, collective struggles over meaning. She calls these struggles, which are based in conflict and agonistic democracy, “politics.” In these practices, Brown finds a “formulation of the political that is richer, more complicated, and also perhaps more fragile than that circumscribed by institutions, procedures, and political representation” (9). An engagement with the law is, for her, a retreat from these kinds of “fragile” and “unfamiliar” forms of politics (ibid.). Therefore, Brown concludes that the freedom stemming from politics should not be “bartered for legal protection” (28). Politics, then, for Brown, represents a corollary to Butler’s extra-legal practices of resignification. Butler and Brown largely address activists seeking legal redress, while Halley’s work explores the problems that result when feminists successfully obtain institutionalized legal power. In Split Decisions (2006), Halley argues that in the twenty-first century, feminism has become increasingly aligned with state power and supranational systems of governance. In particular, she claims that brands of dominance and cultural feminism associated with MacKinnon and Robin West have been most effective at infiltrating the “halls of power” (21). Halley is particularly concerned with the ways that these feminists fail to understand that governance projects—that is, projects intimately engaged with the law—are not simply “rules of justice,” but rather “regulatory practices” (125). She writes that “[t]hey are as powerful as any deployment of institutional forces in the management of knowledge and subject formation. From a Foucauldian perspective their credentials for promoting liberty will always be in question” (ibid.; emphasis in original). One of the main negative consequences that Halley identifies in governance feminism is that it prevents the emergence of nonfeminist ways of thinking about sexuality. She is specifically concerned that queer forms of sexuality, the pleasures of heterosexuality, women’s ability to sexually harm men, and the ambiguity of sexuality in general will not be legible within the framework of governance feminism (33). Here, much as in Butler’s and Brown’s [End Page 35] works, legal feminism ossifies meaning; for this reason, Halley suggests “taking a break from feminism” in order to allow for the expression of ways of thinking about sexuality that are more fluid and ambiguous (34). In Split Decisions, she does not explicitly advocate a retreat from engaging the law writ large; instead, she lists myriad examples of the kinds of legal projects that she understands to rigidly limit the definition of sexuality: familylaw reform, sexual-harassment laws, child sexual-abuse laws, and post-conflict prosecutions that define rape as a weapon of war (20–21). Although Halley’s specific focus is governance feminism, it could be argued that, because she does not provide an alternative account of how feminists might engage with the law, her argument against governance feminism in Split Decisions implicitly discourages feminists from engaging with the law altogether. This critique of the law writ large is more explicitly articulated in the “Introduction” to Left Legalism/Left Critique (2002), an anthology she coedited with Brown. In this “Introduction,” Brown and Halley argue that feminist engagement with the law forecloses the kinds of politics they favor. To support this position, they analyze the history of anti-pornography politics within the feminist movement, suggesting that it was not the anti-pornography position per se that troubled them, but instead the particular legal tactics that MacKinnon used when she created anti-pornography legislation (20–21). This is a departure for both Brown and Halley, who elsewhere have criticized MacKinnon’s antipornography feminism for reducing sexuality to male dominance and female subordination (Brown 1995, 77; Halley 2006, 17–19). In this more recent anthology, they shift the entire burden of their critique of anti-pornography feminism onto MacKinnon’s use of the law to secure a political goal; such legalism, they argue, has overly saturated the Left, thereby foreclosing the proliferation of meaning and practice of agonistic, collective politics. Brown and Halley (2002) suggest that the “nonlegal” tactics that antipornography feminists used prior to MacKinnon’s turn to the courts and state legislatures were more democratic, creative, and, ultimately, political than her use of the law, writing that [w]e remember a mode of activism among antipornography feminists that was more political than legalistic. Women walked into porn shops and trashed the pornography, shamed the customers, mock shamed themselves. They also led tours through porn districts, offering feminist interpretations of pornographic representations and marketing of women, interpretations which others could and should sometimes argue with. (20–21) Here, Brown and Halley do not necessarily support anti-pornography feminism; instead, they value the contestation, collective action, and resignification involved in politics, and view early anti-pornography activists as epitomizing such political tactics. The purpose of their anthology is, in their words, “to recover radically democratic political aims from legalism’s grip in order to [End Page 36] cultivate collective political and cultural deliberation about governing values and practices” (20). For them, the future of feminism lay not in the law, but in politics. Nevertheless, in the following section, I argue that this attempt to disentangle politics from the law is a fantasy. Brown’s, Brown and Halley’s, Butler’s, and Halley’s separation of legal and political (or nonlegal) realms is historically inaccurate and contradicts the Foucauldian theory of power that forms the basis of their analyses. By rereading both the history of anti-pornography and Foucault’s own writings on law, I suggest that the law and politics are intrinsically related, and that it is neither possible nor desirable for feminists to avoid engaging the law. The Case for Legal Optimism The first problem with recent feminist skepticism of the law is that it contradicts the very theoretical innovation that made it distinct from the oppressive hypothesis in the first place. Brown, Butler, and Halley, as explained in the genealogy above, argue that the law is a form of disciplinary power that produces the subject it seeks to represent. As such, it would seem that the law was pervasive and unavoidable; subjects could not disentangle themselves from it in order to engage in politics without law. It would, therefore, follow that feminists would need to work within the law to contest it, and that they could do so via resignification in a manner similar to Butler’s conception of resignification within language. Instead Brown, Butler, and Halley all suggest the opposite. Because of their concerns over disciplinary power, they claim that politics can be disengaged from the law, and valorize such politics as the ideal form of feminist and progressive activism. And yet, by imagining and positing a form of politics that is unencumbered by law, these thinkers inadvertently reintroduce a nonproductive theory of legal power. As a result, although positing a productive theory of the power of law, these poststructuralist feminist thinkers base their rejection of the law on a mechanics of power that is more analogous to the oppressive hypothesis. Their division between law and politics, therefore, contradicts their own innovative theory of the power of law; it also simplifies Foucault’s own understanding of the relationship of the law to disciplinary power. As legal theorists Ben Golder and Peter Fitzpatrick argue in Foucault’s Law (2009), Foucault advocated a dynamic relationship between the law and disciplinary power. Contrary to the common assertion, advanced by both Brown and Smart, that Foucault “expelled” law from modernity, Golder and Fitzpatrick argue that Foucault understood the law and disciplinary power to exist together. At times, he implied that the law was subsumed by disciplinary power (2); at others, as Golder and Fitzpatrick point out, Foucault understood the law to be in conflict with or to transgress the norms set out by the disciplinary aspects of power (77). Thus, for Foucault, the law was not only subservient to disciplinary [End Page 37] power, but could also respond to, transgress, and even transform it. But feminist legal skepticism focuses entirely on the law’s colonization by disciplinary power. It is in their effort to escape disciplinary power that these thinkers undermine their prior assertion that the law is productive of the subject. By considering a more dynamic relationship between the law and politics, it might be possible to observe how the law, although productive, can be turned against disciplinary power through practices of resignification, collectivity, and agonistic democracy. This understanding of the law as both disciplinary and transgressive provides a much fuller conception of the relationship between the law and politics than the opposition set out in Brown’s, Butler’s, and Halley’s works. This fuller understanding allows for a productive theory of legal power that does not return to an oppressive hypothesis in order to theorize a realm of politics for feminists and other progressive activists. As such, it is both more theoretically consistent and more politically optimistic than the legal skepticism of the poststructuralist feminist theorists. A more dynamic understanding of the relationship between the law and politics is also more attentive to history. When Brown and Halley (2002) suggest that feminist direct action within porn shops is superior to MacKinnon’s legal tactics because it is outside of legalism’s grip, they neglect the ways in which the law is very much present within the space of porn shops. Zoning laws, tax laws, and obscenity laws all work together to create the space in which feminist direct action occurs; this is historically true of the very anti-pornography activists whom Brown and Halley suggest operate outside the law. In her comprehensive history of the anti-pornography movement titled Battling Pornography (2011), Carolyn Bronstein suggests that, as the feminist movement against media violence narrowed into the anti-pornography movement, activists considered it necessary to engage the law in order to respond to free-speech advocates (203). This turn to the courts and the kinds of activism that Brown and Halley (2002) discuss were, therefore, contemporaneous within the movement. Thus, Brown and Halley’s implication that there was a time before anti-pornography activists turned to the courts misrepresents this history of the movement. Consequently, feminist engagement with the law should not be oriented around the question of whether to engage the law; instead, feminists should focus on how to do so in a manner that advances their political aims. This question can only be examined within specific legal contexts, which provide the opportunity to examine the relationship between the law and politics rather than asserting their opposition. Thus, feminists can track when disciplinary power subsumes the law, as well as when the law can transgress it, while maintaining the idea that the law is productive of political subjects. In what follows, this article examines the 1996 unionization of San Francisco’s Lusty Lady strip club to demonstrate the dynamic relationship between the law and politics, as well as how the law can be used to support the very political practices that are the centerpieces of Brown’s, Butler’s, and Halley’s thought. [End Page 38] The Case of the Lusty Lady The unionization of the Lusty Lady was made famous by Vicky Funari and Julia Query’s 1998 documentary film Live Nude Girls Unite! In the film, Query interweaves the narrative of her coming out to her mother as a sex worker with footage of the unionization effort. I read the film alongside personal accounts of former dancers to illustrate the imbrications of politics and the law in the Lusty Lady’s effort. This case demonstrates that the law does not always entrench meaning in the ways that Brown, Butler, and Halley suggest; instead**, it** reveals that the politics of resignification and collective, agonistic democracy are themselves intrinsically bound up with the law, making the quest to purify such politics of law both impossible and undesirable. In fact, the law can deepen feminist politics and bolster its ability to achieve success. The Lusty Lady is a peepshow in the North Beach neighborhood of San Francisco. It opened in 1982. At that time, it was a small, locally owned club and was considered a good place to work because dancers were hired as employees rather than independent contractors (Brooks 2001, 60). Their status as employees provided the dancers with job security and benefits, which had not been enjoyed by dancers classified as independent contractors.4 The strip club was also considered a good place to work because it had a reputation for being “sex positive,” meaning that the dancers shared a feminist sensibility and understood their work to be empowering (Borda 2009, 124). Unlike other strip clubs, the Lusty Lady did not allow physical contact between strippers and clients; instead, the dancers performed together on a large stage enclosed by glass windows. Customers sat in private-viewing booths and inserted money into a bill feeder to raise the window covering and watch the dancers onstage (Brooks 2001, 60). There was also a “private pleasures” booth where customers could view individual dancers; this booth was charged at a significantly higher rate and therefore resulted in higher earnings for dancers (61). This payment scale became a source of contention between the dancers and management, as well as among the dancers themselves, and ultimately led to the effort to unionize the club. In the early 1990s, a white dancer petitioned management to increase the wages paid to women in the private booth, arguing that the dancers were being exploited because the club was keeping 70 percent of their earnings. Many white dancers quickly agreed to sign the petition (62). Women of color were more skeptical of the petition because it did not mention the club’s practice of scheduling only white women to work in the private booth. Although the club tried to justify this practice by suggesting that dancers of color were “threatening” to white patrons and therefore resulted in lost revenue, the dancers of color found this contention to be both racist and inaccurate, arguing that they brought in new business from customers of color and that the response of white patrons was more diverse than acknowledged by management (62).5 As [End Page 39] a result, Siobhan Brooks, one of the few black dancers at the club, created her own petition to end the racist scheduling practices at the club and filed a racial discrimination complaint with the Department of Fair and Equal Housing to end the club’s policy of scheduling only white women to dance in the private booth (62, 64). Brooks was angered not only by the club’s policy, but also by her coworkers’ ignorance of how an increase in pay in the private booth would exacerbate the already existing inequalities in the club’s respective treatments of white and women of color dancers (62). In addition to these complaints, dancers voiced a number of other grievances, including the use of one-way mirrors, which allowed customers to covertly videotape performances; the lack of sick pay; and racist scheduling practices that only allowed one woman of color at a time to perform on the main stage (63). A dancer known by her stage name of Jane (1997) recounts the pre-union atmosphere in the club: “Favoritism was the norm, the company’s disciplinary policy was unwritten and erratically and inconsistently applied, dancers had their pay cut in half for missing a staff meeting or calling in sick, and were suspended for reasons like not smiling enough. Like all other non-union workers, we had virtually no recourse if we were suspended or fired unfairly.” Taken together, these grievances led dancers to attempt to form a union. When management learned of such an attempt, as a concession, it removed the one-way glass, but hired a notorious, anti-union attorney to represent their interests. Despite this combination of concession and anti-union effort, the dancers continued in their attempt to unionize in order to negotiate for job security, sick pay, and legally equitable recourse for workers who were wrongly fired or treated unfairly (Miss Mary Ann [n.d.]). In order to unionize, the dancers at the Lusty Lady had to first demonstrate to the unions that they were considered employees, not independent contractors. In the United States, exotic dancers were typically classified as the latter. Not only does this classification allow employers to deny workers benefits and job security, but it also prevents workers from forming a union under the National Labor Relation Act of 1935 (Wilmet 1999, 468). Although dancers at the Lusty Lady were already considered employees, the unions initially assumed that they were independent contractors and subsequently ignored them. Additionally, the unions stigmatized the dancers because they were part of the adult industry, worrying about the corruption, drug use, and other illegal activity that are stereotypically associated with sex work (ibid.). This combination of stigmatizing sex workers and the assumption that all strippers were independent contractors made it difficult for the dancers to find a union willing to represent them. Working with the Exotic Dancer’s Alliance, a nonprofit organization that had assisted dancers at another club to sue management for retaining stage fees, the Lusty Lady dancers eventually convinced a reluctant Service Employees International Union (SEIU) Local 790 to represent them.6 With the assistance of the union, the dancers held a National Labor Board Relations (NLRB) [End Page 40] election during the summer of 1996. Throughout the campaign, management attempted to thwart unionization effort by holding mandatory meetings to discuss how dancers would lose pay because of union dues (Jane 1997; Miss Mary Ann [n.d.]). Management also used the club’s sex-positive reputation against the workers, insisting that the Lusty Lady was a great place to work because management did not extort sexual favors and it provided the dancers with free hot chocolate (Miss Mary Ann [n.d.]). Miss Mary Ann recalls the result of the election, which officially unionized the dancers: “Despite the lies, deceptive leaflets, threats, harassment of union activists and scripted, tear-filled pleas to give the company a ‘second chance,’ we stuck it out and won the election 57 to 15. We named our SEIU chapter the Exotic Dancers Union.” With the union now firmly in place, management was legally required to begin contract negotiations with the dancers. With the assistance of a contract negotiator from Local 790, the dancers commenced such negotiations. The process was slow, because management intentionally tried to stall the negotiations with the hope that the dancers would abandon their effort; for example, management accused the dancers of “sexually harassing themselves” because they used the word “pussy” in the workplace (ibid.; Funari and Query 2000). Management also ignored the dancers’ grievances about sick pay and job security, instead insisting that any contract must contain language allowing management to fire older dancers who had been with the company for more than a year and a half. As stripping is an industry that prizes youth, this new language was especially threatening to older dancers (Miss Mary Ann [n.d.]). Because of the delayed process, the dancers began to engage in political strategies to force management to negotiate more seriously. One particularly effective and creative strategy was a “No Pink” day—similar to a work slowdown, but with a sexualized twist. On this day, the dancers agreed to work with their legs crossed instead of exposing their genitals (ibid.). The dancers wrote on their hands and bodies slogans in support of labor, such as “Please don’t spend $ here … unfair 2 labor” (Figure 1). By showing these slogans through the windows, the dancers tried to convey their cause to customers. As a consequence of such action, management fired a worker. In response, the dancers staged a two-day picket outside the club, chanting slogans like “2, 4, 6, 8, don’t go in to masturbate!” (Funari and Query 2000). In Live Nude Girls Unite!, customers discuss their disgust with management and refuse to cross the picket line, while others, in passing, honked their horns in solidarity with the strippers who were marching and displaying signs that read “Do Not Enter! Unfair to Labor!” and “Bad Girls Like Good Contracts!” (Borda 2009, 124). Once the dancers began to picket the club, management engaged more earnestly in the negotiation process, finally agreeing to a contract in April 1997. It did not include all of the dancers’ demands; for example, there was no clause for an “agency shop”—a requirement that all newly hired employees [End Page 41] join the union. Instead, the contract stipulated a “maintenance of membership,” which required that new employees meet with union officials without retaliation or penalty (Funari and Query 2000). Despite this concession, the contract safeguarded the dancers from arbitrary punishment and dismissal, protected more senior workers, provided workers with automatic raises and a paid sick day, and allowed them to swap shifts with any other dancer, as opposed to only another dancer that “looked like them”—a particularly burdensome rule for women of color, since there were only a few of them (Brooks 2001, 62; Miss Mary Ann [n.d.]). Following this agreement, the dancers went back to work, which has remained unionized for the past fifteen years. Eventually, the dancers gained ownership of the club, thus making it, at the time, the only cooperatively owned strip club in the world.7 In what follows, I examine the implications of this unionization for the feminist accounts of the relationship between the law and politics outlined in the first half of this article. Examining Law through Strip Club Politics The unionization of the Lusty Lady was, first and foremost, a legal effort; it depended on rights afforded to the dancers due to their classification as employees, which allowed them, after much resistance by management, to participate in the NLRB election. This participation allowed them to unionize, and this unionization, in turn, mobilized a series of laws that required management to negotiate and, eventually, establish a contract with the strippers. From beginning to end, the unionization of the Lusty Lady not only occurred within a legal framework, but also depended on the dancers’ active engagement with and production through the law in order to achieve their ends. As a result, it might seem, from Brown’s, Butler’s, and Halley’s perspectives, to represent precisely the sort of stultifying political engagement that feminists and activists should eschew. And yet, in what follows, I argue that the unionization of the Lusty Lady epitomizes the politics of resignification, collectivity, and agonistic democracy espoused by Brown, Butler, and Halley. It did so not in spite of, but rather precisely because of the dancers’ active and ongoing engagement with the law. Thus, this case study demonstrates not only the interdependence of law and politics, but also how the law can [End Page 42] sometimes bolster political engagement in ways that challenge rather than facilitate disciplinary power. The Lusty Lady’s workers furthered their unionization effort through strategies of resignification, sexualizing aspects of their work in ways that challenged unfair labor practices. By chanting sexualized slogans like “2, 4, 6, 8, don’t go in to masturbate!,” by writing “Please don’t spend $ here … unfair 2 labor” on their hands, and by holding the No Pink day, dancers transformed the meaning of their performances. They were no longer just strippers, but instead strippers utilizing the sexualized aspects of their labor to constitute themselves as union workers. By shifting their performances both onstage and on the picket line, the dancers challenged the disciplinary power in the club whereby patrons observed their every move through the glass windows. Instead of adhering to the disciplinary routine of the panopticon-like stage, the dancers shifted the meaning of their performances to defiantly be both sexual and political. In this regard, the activist performances of the dancers allowed them to reconstitute themselves as gendered and sexual subjects in ways that recall the drag queens in Gender Trouble. However, unlike those of drag queens, the dancers’ performances did not enact a parodic slippage between gender and sex that challenged the entire sex/gender system; instead, they introduced a slippage between stripping and union organizing. This slippage challenged the sexist practices of both the unions that barred them from admission and the managers who denied them fair pay. The dancers thus succeeded in challenging the sexism implicit in the organization of labor by giving new meaning to the very sexualized bodies that previously had been its bearers. The dancers resignified not only their own bodies, but also their relationship to the organizational hierarchy of the club. Throughout the negotiation process, the dancers also analogized management to its strip-club customers. Workers humorously imagined the former as engaging in a negotiation “circle jerk,” and suggested that management was holding out on the dancers just as customers would hold back their last dollars (Jane 1997; Miss Mary Ann [n.d.]). Miss Mary Ann says that “[a]s the lawyers’ bargaining session rants wore on, we’d begin to imagine them with their ties flung over their shoulders, the way we were accustomed to seeing their peers in the peep booths at work.” By imaging the club’s owners and lawyers to be more like their customers than their bosses, the dancers reversed the prevailing conception of power in the club, thus transforming the meaning of power relations by humorously sexualizing management. In addition to these resignifying practices, the unionization effort epitomized collective political action both at and beyond the collective bargaining table. Throughout Live Nude Girls Unite!, the dancers are shown sitting around during the periods of downtime in the negotiating process. While this downtime might be easily overlooked or even criticized as a negative feature of the legal process, in the film, we see that the dancers filled these seemingly empty [End Page 43] hours with informal discussions of their political situation. These discussions were extremely generative. It was during such downtime, for instance, that the dancers resignified their relationship to management and came up with the idea of the No Pink day; in other words, the dancers filled this downtime with collective processes of meaning-making. What emerged during such moments were collective conversations about violence, freedom of speech, and the broader issues that the dancers were having on the job. These conversations displayed the new, surprising, and difficult solidarities and disagreements forged through the unionization process, illustrating precisely the kinds of unexpected politics that Brown and Halley (2002) endorse over supposedly more legalistic practices. Finally, the unionization was agonistic—meaning that it was not based in overcoming conflict, but rather in the conflict itself; in other words, the agreement the dancers finally reached was not an endpoint, but instead a stage in what was understood to be an ongoing process of internal and external negotiation. For instance, the maintenance-of-membership clause required union representatives to discuss membership with each new employee. This ongoing dialogue illustrates the continual process of contestation that the union had to engage in, even after the contract had been won. As shown in Live Nude Girls Unite!, in response to the clause, one dancer said: “It’s going to make us work. And I think that maybe in the back of my mind I wanted to believe when this was all over I could rest. And I know that is ridiculous, but in a sense this keeps us honest because we do have to keep doing the work to create a better work environment for people in the sex industry.” Although the unionization effort was primarily an engagement with contract and labor law, it was not premised on an endpoint of consensus that rigidly fixed its meaning; instead, it resulted in a contract that needed to be reiterated to each new employee. Because of the agonistic structure of the dancers’ discussions, each new iteration would lead to new meanings and significances of the contract itself. Consequently, rather than fixing its meaning, the legal contract that emerged allowed dancers to engage in the process of meaning-making from a stronger position than the one they had been in before. The ongoing nature of the unionization is further illustrated by the continued racism of Lusty Lady’s management and white dancers. Brooks (2001, 65) notes that, even after unionization, the club’s work environment was far from perfect for dancers of color; for example, white dancers would often use their privilege to complain when they felt outnumbered onstage, even though women of color were still often used as tokens. These white dancers also complained that rap music, which many women of color preferred while dancing, was too violent or misogynist, although they would not make similar complaints about the frequently sexist rock music performed by white men. Through their own organizing tactics, dancers of color successfully challenged and resisted this racism—for instance, by having signs installed in the booths in English, Spanish, and Mandarin; they also won their battle to keep rap in the jukebox. Such [End Page 44] ongoing conflicts demonstrate that, although this was a legal effort, the dancers did not come to occupy an immutable and undifferentiated identity category of worker; instead, they had to struggle with one another within and among categories in an ongoing effort toward political transformation. Thus, thesame performative, collective, and agonistic politics espoused by Brown, Butler, and Halley existed alongside the legal means employed by Lusty Lady’s dancers. These legal means did not prohibit these political practices, and ultimately, it was the law that made politics possible and became its ultimate vehicle. Were it not for their status as employees, the club’s dancers would not have been able to pursue unionization; this status also protected their efforts to resignify their bodies. Their contract negotiations provided the impetus to reimagine their relationship to management, as well as the generative downtime in which collective conversations about their future could occur. The contract that resulted from these negotiations was itself not final, but rather the first stage in what was understood to be an ongoing process. Within this process, the protections that the contract provided allowed for the rectification of continuing racist power dynamics among the dancers and the proliferation of individual meanings. Thus, for Lusty Lady’s dancers, the law not only strengthened political practices, but also became the vehicle through which politics occurred. In the conclusion to this article, I explore the implications of this dynamic and the mutually constitutive relationship between the law and politics for feminist theory and activism more generally. Conclusion This article examined the place of legal engagement in the work of two generations of feminist theorists. I argued that the more recent generation of poststructuralist theorists, despite ascribing a productive theory of the power to the law, advocated that feminists take action within a realm of politics that, in theory, was purified of legalism. Combining these theorists’ own conceptions of power, the work of Foucault, and the historical examples cited, I argued that such a realm does not exist. Then, through a case study of the unionization of the Lusty Lady strip club, I showed that the law not only underlies, but also bolsters the forms of political activism valorized bythese poststructuralist thinkers. The result is a more dynamic conception of the relationship between the law and politics in feminist thought. This conception highlights the need, within feminist theory, to track the relationship between the law and politics in concrete, historically situated contexts. Without exploring historical examples of more optimistic relationships between the law and politics, feminists risk succumbing to nihilism or else constructing an idealized realm of politics outside of the law. Feminist theorists, therefore, need to move away from extrapolating general doomsday characteristics of the law and toward rethinking the possibilities of legal engagement. [End Page 45] This rethinking is all the more necessary if we accept Brown’s, Butler’s, and Halley’s productive account of the power of law.